

Senate Chamber, Atlanta, Georgia  
Thursday, March 9, 2006  
Twenty-ninth Legislative Day

The Senate met pursuant to adjournment at 9:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed by the requisite constitutional majority the following Bills of the House:

HB 1027. By Representatives Richardson of the 19th, Golick of the 34th, Harbin of the 118th, Roberts of the 154th, Keen of the 179th and others:

A BILL to make and provide appropriations for the State Fiscal Year beginning July 1, 2006, and ending July 30, 2007.

HB 1053. By Representatives Mills of the 25th, Rice of the 51st, Ehrhart of the 36th, Keen of the 179th, Fleming of the 117th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for a special license plate promoting the national motto, "In God We Trust"; to provide for a portion of the revenue to go to the Boy Scouts of America; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such special license plates; to provide for related matters; to provide a contingent effective date; to repeal conflicting laws; and for other purposes.

- HB 1385. By Representatives Heard of the 104th, Ehrhart of the 36th, Coan of the 101st, Dodson of the 75th and Forster of the 3rd:

A BILL to be entitled an Act to amend Part 2 of Article 1 of Chapter 2 of Title 8 of the O.C.G.A., relating to state building, plumbing, and electrical codes, so as to provide for the employment of private professional providers to perform building plan reviews and inspections when the local jurisdiction cannot timely perform such services; to provide a definition; to provide for the qualifications of such persons; to provide for the manner of such reviews and inspections; to provide for certain insurance requirements; to provide for the manner of submitting reports; to amend Chapter 2 of Title 25 of the O.C.G.A., relating to regulation of fire and other hazards to persons and property generally, so as to provide for the employment of private professional providers to perform building plan reviews when the state fire marshal, local fire marshal, or state inspector cannot timely perform such services; to provide for other related matters; to repeal conflicting laws; and for other purposes.

- HB 1399. By Representative Ralston of the 7th:

A BILL to be entitled an Act to amend Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrate courts, so as to provide that a magistrate's salary may be waived under certain circumstances; to provide that monthly contingent expenses maybe waived under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

- HB 1405. By Representatives Coan of the 101st, Burkhalter of the 50th, Heard of the 104th, Keen of the 179th, England of the 108th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to require that a claim be proven or documented within 36 months after a notice of claim is filed; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

- HB 1444. By Representatives Maxwell of the 17th, Knox of the 24th, Meadows of the 5th, Forster of the 3rd and Lunsford of the 110th:

A BILL to be entitled an Act to amend an Act approved May 2, 2005 (Ga. L. 2005, p. 563), so as to revise the applicability of certain sections of such

Act to apply to insolvencies occurring on and after the effective date of the Act; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 1494. By Representatives Smith of the 113th and Holt of the 112th:

A BILL to be entitled an Act to create a board of elections and registration for Morgan County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification and terms of members; to provide for employees of the board; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for compensation of personnel; to provide for offices and equipment; to provide for construction; to provide for the board's performance of certain functions and duties for certain municipalities; to provide for the submission of this Act for approval pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 1499. By Representative Cheokas of the 134th:

A BILL to be entitled an Act to amend an Act creating the State Court of Sumter County, approved November 22, 1900 (Ga. L. 1900, p. 93), as amended, so as to provide that on and after January 1, 2007, the district attorney of the judicial circuit within which Sumter County is located shall represent the state in all criminal prosecutions brought in the State Court of Sumter County and shall perform the duties of the office of solicitor-general of the state court; to provide for the powers, duties, and responsibilities of said district attorney in such state court; to authorize the establishment of a state court division by said district attorney; to provide for the assignment, appointment, and compensation of personnel by said district attorney; to provide for annual budgets; to provide for definitions and references; to provide for submission to the Justice Department for preclearance; to repeal conflicting laws; and for other purposes.

HB 1503. By Representatives Bridges of the 10th, Reece of the 27th and Jenkins of the 8th:

A BILL to be entitled an Act to authorize the Magistrate Court of White County to charge a technology fee for each civil case filed and criminal fine imposed; to specify the uses to which said technology fees may be put; to

provide for review and reports; to provide for adjustment of such fee; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 1504. By Representatives Bridges of the 10th, Reece of the 27th and Jenkins of the 8th:

A BILL to be entitled an Act to authorize the Probate Court of White County to charge a technology fee for each civil case filed and criminal fine imposed; to specify the uses to which said technology fees may be put; to provide for review and reports; to provide for adjustment of such fee; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 1514. By Representatives Mitchell of the 88th, Watson of the 91st, Stephenson of the 92nd, Mangham of the 94th, Sailor of the 93rd and others:

A BILL to be entitled an Act to provide for the filling of vacancies in the office of sheriff of DeKalb County; to provide that the chief deputy shall discharge the duties of sheriff until such office is filled; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1515. By Representatives Lane of the 167th, Keen of the 179th and Hill of the 180th:

A BILL to be entitled an Act to provide for the creation of a community improvement district in Glynn County; to provide for a short title; to provide for the purposes of said district; to provide for definitions; to provide for a board to administer said district; to provide for the appointment and election of members of said board; to provide for taxes, fees, and assessments; to provide for the boundaries of said district; to provide for debt of said district other than bonded indebtedness; to provide for cooperation with local governments; to provide for powers of said board; to provide for construction; to provide that no notice, proceeding, publication, or referendum shall be required; to provide for dissolutions; to provide the procedures connected with all of the foregoing; to repeal conflicting laws; and for other purposes.

The House has adopted by the requisite constitutional majority the following Resolutions of the House:

HR 1169. By Representatives Bearden of the 68th, Brooks of the 63rd, Hembree of the 67th and Bruce of the 64th:

A RESOLUTION dedicating the "Colonel R. H. Burson Bridge"; and for other purposes.

HR 1564. By Representatives Dollar of the 45th and Rice of the 51st:

A RESOLUTION proposing an amendment to the Constitution so as to authorize the General Assembly to provide for special motor vehicle license plates and dedicate the revenue from such plates for stated purposes, including dedications for the ultimate use of agencies, funds, or nonprofit corporations where it is found that there will be a benefit to the state; to provide for related matters; to provide for submission of this amendment for ratification or rejection; and for other purposes.

The House has adopted the report of the Committee of Conference on the following Bill of the House:

HB 1026. By Representatives Richardson of the 19th, Golick of the 34th, Harbin of the 118th, Roberts of the 154th, Keen of the 179th and others:

A BILL to amend an Act providing appropriations for the State Fiscal Year beginning July 1, 2005, and ending June 30, 2006, known as the "General Appropriations Act," approved May 10, 2005 (Ga. L. 2005, p. 1319).

The following Senate legislation was introduced, read the first time and referred to committee:

SB 660. By Senator Bulloch of the 11th:

A BILL to be entitled an Act to amend an Act creating a new board of education of Grady County, approved March 5, 1968 (Ga. L. 1968, p. 2120), as amended, so as to provide for the compensation of members of the board; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 661. By Senators Powell of the 23rd and Tarver of the 22nd:

A BILL to be entitled an Act to amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, so as to provide that estate recovery under Medicaid shall not apply to estates

valued at \$100,000.00 or less; to provide for hardship waivers to estate recovery for certain circumstances; to specify when claim may be made against the estate of a Medicaid recipient; to specify when a claim may not be made against the estate of a Medicaid recipient; to provide for submission of an amendment to the state plan; to provide for automatic repeal under certain conditions; to provide for other related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 662. By Senator Thompson of the 5th:

A BILL to be entitled an Act to amend Article 1 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to the registration and licensing of motor vehicles, so as to require the establishment by the Department of Revenue of an Internet website for stolen and towed motor vehicles; to require that each tow truck or wrecker operator shall post the vehicle identification numbers and license plate numbers of certain motor vehicles that are towed by such operator on such website within certain periods of time; to provide for penalties for failing to post such information; to provide for certain required features of such website; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SB 663. By Senators Thompson of the 5th, Unterman of the 45th, Weber of the 40th, Balfour of the 9th, Shafer of the 48th and others:

A BILL to be entitled an Act to amend an Act creating the Gwinnett County Arts Facility Authority, approved April 14, 1991 (Ga. L. 1991, p. 3542), so as to change the number of times each year the authority shall meet; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SR 1113. By Senators Harp of the 29th and Wiles of the 37th:

A RESOLUTION to create the Senate Study Committee on Student Loans; and for other purposes.

Referred to the Rules Committee.

SR 1116. By Senator Harp of the 29th:

A RESOLUTION to create the Senate Study Committee on Guaranteed Admission to the University System of Georgia; and for other purposes.

Referred to the Rules Committee.

SR 1118. By Senator Rogers of the 21st:

A RESOLUTION urging all Georgia school boards to consider using the video A More Perfect Union; and for other purposes.

Referred to the Education and Youth Committee.

SR 1125. By Senators Staton of the 18th, Harp of the 29th, Rogers of the 21st and Shafer of the 48th:

A RESOLUTION creating the Senate Study Committee on Uninsured Motorist Coverages; and for other purposes.

Referred to the Rules Committee.

SR 1127. By Senator Douglas of the 17th:

A RESOLUTION urging the United States Department of Defense to take action to cause the commissary and post exchange located on Fort Gillem to remain open; and for other purposes.

Referred to the Veterans and Military Affairs Committee.

SR 1129. By Senators Hill of the 32nd, Pearson of the 51st, Smith of the 52nd, Wiles of the 37th, Chance of the 16th and others:

A RESOLUTION urging the Minerals Management Service of the United States Department of the Interior to include all outer continental shelf planning areas in its proposed five-year plan for 2007 through 2012 and to approve the broadest possible five-year plan for offshore development; and for other purposes.

Referred to the Natural Resources and the Environment Committee.

The following House legislation was read the first time and referred to committee:

HB 1027. By Representatives Richardson of the 19th, Golick of the 34th, Harbin of the 118th, Roberts of the 154th, Keen of the 179th and others:

A BILL to make and provide appropriations for the State Fiscal Year beginning July 1, 2006, and ending July 30, 2007.

Referred to the Appropriations Committee.

HB 1053. By Representatives Mills of the 25th, Rice of the 51st, Ehrhart of the 36th, Keen of the 179th, Fleming of the 117th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for a special license plate promoting the national motto, "In God We Trust"; to provide for a portion of the revenue to go to the Boy Scouts of America; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such special license plates; to provide for related matters; to provide a contingent effective date; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

HB 1385. By Representatives Heard of the 104th, Ehrhart of the 36th, Coan of the 101st, Dodson of the 75th and Forster of the 3rd:

A BILL to be entitled an Act to amend Part 2 of Article 1 of Chapter 2 of Title 8 of the O.C.G.A., relating to state building, plumbing, and electrical codes, so as to provide for the employment of private professional providers to perform building plan reviews and inspections when the local jurisdiction cannot timely perform such services; to provide a definition; to provide for the qualifications of such persons; to provide for the manner of such reviews and inspections; to provide for certain insurance requirements; to provide for the manner of submitting reports; to amend Chapter 2 of Title 25 of the O.C.G.A., relating to regulation of fire and other hazards to persons and property generally, so as to provide for the employment of private professional providers to perform building plan reviews when the state fire marshal, local fire marshal, or state inspector cannot timely perform such services; to provide for other related matters; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

HB 1399. By Representative Ralston of the 7th:

A BILL to be entitled an Act to amend Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrate courts, so as to provide that a magistrate's salary may be waived under certain circumstances; to provide that monthly contingent expenses may be waived under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

HB 1405. By Representatives Coan of the 101st, Burkhalter of the 50th, Heard of the 104th, Keen of the 179th, England of the 108th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to require that a claim be proven or documented within 36 months after a notice of claim is filed; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

HB 1444. By Representatives Maxwell of the 17th, Knox of the 24th, Meadows of the 5th, Forster of the 3rd and Lunsford of the 110th:

A BILL to be entitled an Act to amend an Act approved May 2, 2005 (Ga. L. 2005, p. 563), so as to revise the applicability of certain sections of such Act to apply to insolvencies occurring on and after the effective date of the Act; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

HB 1494. By Representatives Smith of the 113th and Holt of the 112th:

A BILL to be entitled an Act to create a board of elections and registration for Morgan County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification and terms of members; to provide for employees of the board; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for compensation of personnel; to provide for offices and equipment; to

provide for construction; to provide for the board's performance of certain functions and duties for certain municipalities; to provide for the submission of this Act for approval pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1499. By Representative Cheokas of the 134th:

A BILL to be entitled an Act to amend an Act creating the State Court of Sumter County, approved November 22, 1900 (Ga. L. 1900, p. 93), as amended, so as to provide that on and after January 1, 2007, the district attorney of the judicial circuit within which Sumter County is located shall represent the state in all criminal prosecutions brought in the State Court of Sumter County and shall perform the duties of the office of solicitor-general of the state court; to provide for the powers, duties, and responsibilities of said district attorney in such state court; to authorize the establishment of a state court division by said district attorney; to provide for the assignment, appointment, and compensation of personnel by said district attorney; to provide for annual budgets; to provide for definitions and references; to provide for submission to the Justice Department for preclearance; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1503. By Representatives Bridges of the 10th, Reece of the 27th and Jenkins of the 8th:

A BILL to be entitled an Act to authorize the Magistrate Court of White County to charge a technology fee for each civil case filed and criminal fine imposed; to specify the uses to which said technology fees may be put; to provide for review and reports; to provide for adjustment of such fee; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1504. By Representatives Bridges of the 10th, Reece of the 27th and Jenkins of the 8th:

A BILL to be entitled an Act to authorize the Probate Court of White County to charge a technology fee for each civil case filed and criminal fine imposed; to specify the uses to which said technology fees may be put; to provide for

review and reports; to provide for adjustment of such fee; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1514. By Representatives Mitchell of the 88th, Watson of the 91st, Stephenson of the 92nd, Mangham of the 94th, Sailor of the 93rd and others:

A BILL to be entitled an Act to provide for the filling of vacancies in the office of sheriff of DeKalb County; to provide that the chief deputy shall discharge the duties of sheriff until such office is filled; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1515. By Representatives Lane of the 167th, Keen of the 179th and Hill of the 180th:

A BILL to be entitled an Act to provide for the creation of a community improvement district in Glynn County; to provide for a short title; to provide for the purposes of said district; to provide for definitions; to provide for a board to administer said district; to provide for the appointment and election of members of said board; to provide for taxes, fees, and assessments; to provide for the boundaries of said district; to provide for debt of said district other than bonded indebtedness; to provide for cooperation with local governments; to provide for powers of said board; to provide for construction; to provide that no notice, proceeding, publication, or referendum shall be required; to provide for dissolutions; to provide the procedures connected with all of the foregoing; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HR 1169. By Representatives Bearden of the 68th, Brooks of the 63rd, Hembree of the 67th and Bruce of the 64th:

A RESOLUTION dedicating the "Colonel R. H. Burson Bridge"; and for other purposes.

Referred to the Transportation Committee.

HR 1564. By Representatives Dollar of the 45th and Rice of the 51st:

A RESOLUTION proposing an amendment to the Constitution so as to authorize the General Assembly to provide for special motor vehicle license plates and dedicate the revenue from such plates for stated purposes, including dedications for the ultimate use of agencies, funds, or nonprofit corporations where it is found that there will be a benefit to the state; to provide for related matters; to provide for submission of this amendment for ratification or rejection; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Rules Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SR 844      Do Pass

Respectfully submitted,  
Senator Balfour of the 9th District, Chairman

Mr. President:

The State and Local Governmental Operations Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 1078	Do Pass	HB 1470	Do Pass
HB 1079	Do Pass	HB 1479	Do Pass
HB 1102	Do Pass	HB 1480	Do Pass
HB 1350	Do Pass	SB 334	Do Pass
HB 1363	Do Pass		

Respectfully submitted,  
Senator Wiles of the 37th District, Chairman

The following legislation was read the second time:

HB 1014	SB 431	SB 575	SB 604	SB 637	SR 1027
HB 1040	SB 438	SB 578	SB 610	SB 638	SR 1028
HB 1055	SB 461	SB 582	SB 612	SB 642	SR 1030
HR 1081	SB 483	SB 583	SB 613	SB 648	SR 1034
SB 101	SB 491	SB 585	SB 618	SB 649	SR 1081
SB 191	SB 511	SB 588	SB 619	SR 126	SR 1085
SB 223	SB 541	SB 594	SB 620	SR 374	SR 1090
SB 294	SB 554	SB 596	SB 622	SR 804	SR 1093
SB 347	SB 565	SB 597	SB 624	SR 817	SR 1094
SB 402	SB 572	SB 599	SB 631	SR 873	SR 1104
SB 407	SB 574	SB 602	SB 636		

Senator Stephens of the 27th asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

Senator Hudgens of the 47th asked unanimous consent that Senator Kemp of the 46th be excused. The consent was granted, and Senator Kemp was excused.

Senator Tolleson of the 20th asked unanimous consent that Senator Grant of the 25th be excused. The consent was granted, and Senator Grant was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Smith of the 52nd be excused. The consent was granted, and Senator Smith was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Mullis of the 53rd be excused. The consent was granted, and Senator Mullis was excused.

Senator Adelman of the 42nd asked unanimous consent that Senator Zamarripa of the 36th be excused. The consent was granted, and Senator Zamarripa was excused.

Senator Seay of the 34th asked unanimous consent that Senator Reed of the 35th be excused. The consent was granted, and Senator Reed was excused.

Senator Wiles of the 37th asked unanimous consent that Senator Weber of the 40th be excused. The consent was granted, and Senator Weber was excused.

Senator Williams of the 19th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

The roll was called and the following Senators answered to their names:

Adelman	Henson	Staton
Balfour	Hill,Judson	Stephens
Brown	Hooks	Stoner
Bulloch	Hudgens	Tarver
Butler	Jones	Tate
Cagle	Me V Bremen	Thomas,D
Chance	Miles	Thomas,R
Chapman	Moody	Thompson,C
Douglas	Pearson	Thompson,S
Fort	Powell	Tolleson
Goggans	Rogers	Unterman
Golden	Schaefer	Weber
Hamrick	Seabaugh	Whitehead
Harbison	Seay	Wiles
Harp	Shafer,D	Williams
Heath	Starr	

Not answering were Senators:

Carter	Grant (Excused)	Hill, Jack (Excused)
Johnson (Excused)	Kemp (Excused)	Mullis (Excused)
Reed (Excused)	Smith (Excused)	Zamarripa (Excused)

The members pledged allegiance to the flag.

Senator Adelman of the 42nd introduced the chaplain of the day, Rabbi Michael Broyde of Atlanta, Georgia, who offered scripture reading and prayer.

Senator Miles of the 43rd introduced Juanita Jones Abernathy, commended by SR 1112, adopted previously. Mrs. Abernathy addressed the Senate briefly.

Senators Meyer von Bremen of the 12th and Hooks of the 14th introduced Miss Alexa Turpin, commended by SR 1060, adopted previously.

Senator Staton of the 18th introduced Dr. R. Kirby Godsey, commended by SR 666, adopted previously. Dr. Godsey addressed the Senate briefly.

The following resolutions were read and adopted:

SR 1117. By Senators Zamarripa of the 36th, Mullis of the 53rd and Hill of the 32nd:

A RESOLUTION commending Mr. Chuanshui Zhong and Mr. Zhongnan Wang, First Secretaries of the Economic & Commercial Office at the Embassy of China, Washington, D.C.; and for other purposes.

Senator Zamarripa of the 36th recognized a delegation from China, commended by SR 1117.

SR 1119. By Senators Staton of the 18th and Brown of the 26th:

A RESOLUTION recognizing and commending the Museum of Arts and Sciences in Macon on its 50th Anniversary; and for other purposes.

SR 1120. By Senator Heath of the 31st:

A RESOLUTION commending and recognizing Dianne Guy; and for other purposes.

SR 1121. By Senator Bulloch of the 11th:

A RESOLUTION commending Deputy Sheriff Steven Jones; and for other purposes.

SR 1122. By Senators Stephens of the 27th and Rogers of the 21st:

A RESOLUTION honoring and commending Ryan Ernstes; and for other purposes.

SR 1123. By Senators Cagle of the 49th and Kemp of the 46th:

A RESOLUTION commemorating the 90th anniversary of the founding of the Town of Braselton; and for other purposes.

SR 1124. By Senator Moody of the 56th:

A RESOLUTION remembering and honoring the life of Mrs. Mary Ann Penninger; and for other purposes.

SR 1126. By Senators Thompson of the 5th, Thompson of the 33rd, Henson of the 41st, Butler of the 55th, Brown of the 26th and others:

A RESOLUTION remembering and honoring the life of Mr. Adam Michael Stevens; and for other purposes.

SR 1128. By Senator Hooks of the 14th:

A RESOLUTION commending the Peach County High School Trojans football team for winning the Class AAA state football championship; and for other purposes.

Senators Jones of the 10th and Miles of the 43rd introduced Mr. Ernest Raymond Prather, commended by SR 1103, adopted previously.

Senator Brown of the 26th asked unanimous consent that Senator Fort of the 39th be excused. The consent was granted, and Senator Fort was excused.

Senator Stephens of the 27th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

The following local, uncontested legislation, favorably reported by the committee as listed on the Local Consent Calendar, was put upon its passage:

### **SENATE LOCAL CONSENT CALENDAR**

Thursday, March 9, 2006  
Twenty-ninth Legislative Day

(The names listed are the Senators whose districts are affected by the legislation.)

SB 334                Jones of the 10th  
                         Reed of the 35th  
                         Zamarripa of the 36th  
                         Tate of the 38th  
                         Fort of the 39th  
                         Adelman of the 42nd  
**CITY OF ATLANTA**

A BILL to be entitled an Act to amend the "Atlanta Urban Enterprise Zone Act," approved March 24, 1988 (Ga. L. 1988, p. 4164), as amended, particularly by an Act approved April 20, 1998

(Ga. L. 1998, p. 4493), so as to change criteria for the designation of urban enterprise zones; to repeal conflicting laws; and for other purposes.

SB 615

Goggans of the 7th

**ATKINSON/BERRIEN/CLINCH/COOK/LANIER COUNTIES**

A BILL to be entitled an Act to amend Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to the terms of superior courts, so as to change the term of court in Atkinson, Berrien, Clinch, Cook, and Lanier counties in the Alapaha Judicial Circuit; to repeal conflicting laws; and for other purposes.

HB 1078

Meyer von Bremen of the 12th

**RANDOLPH COUNTY WATER AND SEWER AUTHORITY**

A BILL to be entitled an Act to create the Randolph County Water and Sewer Authority and provide for its activation; to provide for a short title; to provide for definitions; to provide for the purposes, powers, duties, and functions of the authority and authorize certain contracts and agreements; to provide for the membership and appointment of members of the authority and their terms of office, qualifications, duties, powers, methods of filling vacancies, compensation, and expenses; to provide for organization, meetings, and quorum of the authority; to provide for an attorney of the authority; to provide for an audit and budgets; to authorize the authority to contract with others regarding its functions, to contract with others pertaining to the use of the utilities and facilities of the authority, and to execute leases and do all things necessary or convenient for the operation of such undertakings or projects; to repeal conflicting laws; and for other purposes.

HB 1079

Meyer von Bremen of the 12th

**RANDOLPH COUNTY**

A BILL to be entitled an Act to provide a board of elections for Randolph County; to define its powers and duties concerning primaries and elections; to define certain terms; to provide a method for appointment, resignation, and removal of its members; to provide for the qualifications and terms of its members; to provide for a

chairperson, clerical assistants, and other employees; to provide for compensation of such persons and the members of the board; to provide for facilities; to relieve the judge of the probate court from certain responsibilities; to provide for submission under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 1102

Meyer von Bremen of the 12th  
**CITY OF COLEMAN**

A BILL to be entitled an Act to repeal an Act providing a new charter for the City of Coleman, approved April 19, 2000 (Ga. L. 2000, p. 3658), and abolish said city; to provide for the disposition of the assets, property, and legal rights and obligations of the city and the winding up of city affairs; to provide for submission under the federal Voting Rights Act of 1965, as amended; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 1350

Kemp of the 46th  
**OCONEE COUNTY**

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Oconee County, approved April 18, 1917 (Ga. L. 1917, p. 384), as amended, particularly by an Act approved April 17, 1975 (Ga. L. 1975, p. 3105), so as to provide for terms for the members of the board of commissioners of Oconee County; to provide for elections; to provide for a referendum; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 1363

Hill of the 4th  
**TOWN OF PULASKI**

A BILL to be entitled an Act to amend an Act creating a new charter for the Town of Pulaski, approved April 9, 1999 (Ga. L. 1999, p. 3946), as amended, so as to provide authority for the mayor and councilmembers to perform and be compensated for duties related to the operation of the water system and other administrative functions; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1470

Hill of the 32nd  
Reed of the 35th  
Zamarripa of the 36th  
Tate of the 38th  
Fort of the 39th  
Shafer of the 48th  
Moody of the 56th

**CITY OF MILTON IN FULTON COUNTY**

A BILL to be entitled an Act to incorporate the City of Milton in Fulton County, Georgia; to provide a charter for the City of Milton; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for the offices of mayor and city manager and certain duties and powers relative to those offices; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, a city treasurer, and other personnel; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof; to provide for practices and procedures; to provide for severability; to repeal conflicting laws; and for other purposes.

HB 1479

Hill of the 4th  
**CITY OF RINCON**

A BILL to be entitled an Act to amend an Act to provide a new charter for the City of Rincon, approved April 4, 1997 (Ga. L. 1997, p. 3556), as amended, so as to provide for conflicts of interest; to provide for a quorum; to provide for powers and duties of the mayor; to provide for jurisdiction of the municipal court; to provide for appeals; to repeal provisions relating to the removal of officers; to provide for city boards, commissions, and authorities; to repeal conflicting laws; and for other purposes.

HB 1480

Kemp of the 46th  
**OCONEE COUNTY**

A BILL to be entitled an Act to provide for terms for the members of the Board of Education of Oconee County; to provide for a referendum; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the local legislation as reported, was agreed to.

On the passage of the legislation, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Chapman	Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
E Fort	Y Mullis	Y Thompson,S
Y Goggans	Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the local legislation, the yeas were 49, nays 0.

The legislation on the Local Consent Calendar, having received the requisite constitutional majority, was passed.

The following communications were received by the Secretary:

Senator Chip Pearson  
District 51  
321-B Coverdell Legislative Office Building  
Atlanta, GA 30334

**Committees:**  
Transportation  
Agriculture and Consumer Affairs  
Appropriations  
Regulated Industries and Utilities

The State Senate  
Atlanta, Georgia 30334

3/9/06

I meant to vote Yes for the Local Consent Calendar today and missed the clock by 2 seconds.

/s/ Chip Pearson  
District 51

Senator Nancy Schaefer  
District 50  
323-A Coverdell Legislative Office Building  
Atlanta, GA 30334

**Committees:**  
Retirement  
Banking and Financial Institutions  
Economic Development  
Ethics  
Special Judiciary

The State Senate  
Atlanta, Georgia 30334

March 9, 2006

I was not inside the chamber and did not vote on the Local Consent legislation. I would vote for it.

Thank you,

/s/ Nancy Schaefer  
50th District

SENATE RULES CALENDAR  
THURSDAY, MARCH 9, 2006  
TWENTY-NINTH LEGISLATIVE DAY

- |        |   |
|--------|---|
| SR 793 | Ga. Public Defender Standards Council; ratifying the initial minimum standard; Standard for Removal for Cause (Substitute)(JUDY-30th) |
| SR 954 | Performance Standards; ratifying the initial minimum standard; fiscal impact (JUDY-30th)  |

- SR 955 Performance Standards in Juvenile Court; ratifying the initial minimum standard; fiscal impact (JUDY-30th)
- SR 41 Senate Music Industry Committee; create (Amendment)(ECD-26th)
- SR 818 Senate Septage Disposal Study Committee; creating (NR&E-11th)
- SR 34 CA: Sales Tax; educational purposes; change certain imposition requirements (Substitute)(RULES-49th)
- SR 838 Hazardous Waste Site/ Waste-Related Activities; to urge and support full funding; state/local efforts to clean (NR&E-51st)
- SB 503 Ga. Public Defender Standards Council; legal services to indigent persons; change provisions (Substitute)(JUDY-30th)
- SB 495 Fire Hazards; increase in fees/charges; provide fee for blaster certification cards; require license prior to blast hole drilling (PS&HS-53rd)
- SB 573 Land Transactions; development of condominium property; escrow funds (S JUDY-13th)
- SB 570 Motor Vehicles; windshields; reduce light transmission/increase light reflectance; authorize certified optometrist to provide attestation (PS&HS-13th)
- SB 177 Teachers Retirement System; change benefit formula; provide conditions (Substitute)(RET-38th)
- SB 420 Care of a Grandchild Act; power of attorney from parent to grandparent; create pilot program to provide subsidy to certain grandparents (Substitute)(JUDY-45th)
- SB 592 Disposition of Surplus Property; sale of certain property by fixed price; change provisions (SI&P-25th)
- SB 480 Georgia Qualified Medication Aides Act; provide for delegation of certain nursing tasks; Georgia Board of Examiners of Licensed Practical Nurses (Substitute)(H&HS-45th)
- SB 606 Funerals; prohibit disruptive conduct; elements of such offense; provide criminal penalty (PS&HS-17th)

Respectfully submitted,

/s/ Balfour of the 9th, Chairman  
Senate Rules Committee

Senator Wiles of the 37th asked unanimous consent that Senator Weber of the 40th be excused. The consent was granted, and Senator Weber was excused.

Senator Douglas of the 17th asked unanimous consent that Senator Chapman of the 3rd be excused. The consent was granted, and Senator Chapman was excused.

The following legislation was read the third time and put upon its passage:

SR 793. By Senators Hamrick of the 30th and Smith of the 52nd:

A RESOLUTION ratifying the initial minimum standard promulgated by the Georgia Public Defender Standards Council, hereinafter referred to as the "Standards Council," entitled "Standard for Removal of a Circuit Public Defender for Cause Pursuant to O.C.G.A. § 17-12-20," hereinafter referred to as the "Standard for Removal for Cause"; to provide for an effective date; and for other purposes.

The Senate Judiciary Committee offered the following substitute to SR 793:

#### A RESOLUTION

Ratifying the initial minimum standard promulgated by the Georgia Public Defender Standards Council, hereinafter referred to as the "Standards Council," entitled "Standard for Removal of a Circuit Public Defender for Cause Pursuant to O.C.G.A. § 17-12-20," hereinafter referred to as the "Standard for Removal for Cause"; to provide for an effective date; and for other purposes.

WHEREAS, Code Section 17-12-8 of the O.C.G.A. provides that the initial minimum standards promulgated by the Standards Council which are determined by the General Oversight Committee for the Georgia Public Defender Standards Council, hereinafter referred to as the "Legislative Oversight Committee," to have a fiscal impact shall be submitted by the Standards Council to the General Assembly and shall become effective only when ratified by joint resolution of the General Assembly and upon the approval of the resolution by the Governor or upon its becoming law without such approval; and

WHEREAS, the Standards Council adopted the Standard for Removal for Cause on May 27, 2005; and

WHEREAS, the Legislative Oversight Committee at its meeting on October 13, 2005, reviewed and determined that the Standard for Removal for Cause has a fiscal impact; and

WHEREAS, a copy of the original document containing the Standard for Removal for Cause is attached to and made a part of this resolution; and

WHEREAS, the original document containing the Standard for Removal for Cause is signed by the chairperson of the Standards Council and is on file in the official records maintained by the Standards Council; and

WHEREAS, the request for legislative ratification of the Standard for Removal for Cause has been submitted to the General Assembly in accordance with subsection (c) of Code Section 17-12-8 of the O.C.G.A. and it is the desire of the General Assembly to ratify and approve such standard.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the General Assembly hereby ratifies and approves the Standard for Removal for Cause adopted by the Standards Council and approved by the Legislative Oversight Committee on October 13, 2005. A copy of the Standard for Removal for Cause has been presented to the Legislative Oversight Committee and is attached to this resolution, and the original document is on file in the official records maintained by the Standards Council.

BE IT FURTHER RESOLVED that this resolution shall become effective upon its approval by the Governor or upon its becoming law without the Governor's approval.

On the adoption of the substitute, the yeas were 42, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Chance	Y Me V Bremen	Y Thomas,D

E Chapman	Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
E Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Powell	Y Unterman
Y Grant	Y Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 46, nays 0.

SR 793, having received the requisite constitutional majority, was adopted by substitute.

Senator Wiles of the 37th asked unanimous consent that Senator Rogers of the 21st be excused. The consent was granted, and Senator Rogers was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Smith of the 52nd be excused. The consent was granted, and Senator Smith was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Mullis of the 53rd be excused. The consent was granted, and Senator Mullis was excused.

SR 954. By Senators Hamrick of the 30th and Smith of the 52nd:

A RESOLUTION ratifying the initial minimum standard promulgated by the Georgia Public Defender Standards Council, hereinafter referred to as the "Standards Council," entitled "State of Georgia Performance Standards for Criminal Defense Representation in Indigent Criminal Cases," hereinafter referred to as the "Performance Standard"; to provide for an effective date; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens

Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
E Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
E Fort	E Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	E Weber
Y Hamrick	E Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 48, nays 0.

SR 954, having received the requisite constitutional majority, was adopted.

Senator Hudgens of the 47th asked unanimous consent that Senator Williams of the 19th be excused. The consent was granted, and Senator Williams was excused.

Senator Hudgens of the 47th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Balfour of the 9th be excused. The consent was granted, and Senator Balfour was excused.

SR 955. By Senators Hamrick of the 30th and Smith of the 52nd:

A RESOLUTION ratifying the initial minimum standard promulgated by the Georgia Public Defender Standards Council, hereinafter referred to as the "Standards Council," entitled "State of Georgia Performance Standards for Juvenile Defense Representation in Indigent Delinquency and Unruly Cases," hereinafter referred to as the "Performance Standard in Juvenile Court"; to provide for an effective date; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	E Smith
E Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
E Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
E Fort	E Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	E Weber
Y Hamrick	E Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 44, nays 0.

SR 955, having received the requisite constitutional majority, was adopted.

SR 41. By Senators Brown of the 26th and Johnson of the 1st:

A RESOLUTION creating the Senate Music Industry Committee, an interim study committee, and a citizens' advisory council thereto; and for other purposes.

The Senate Economic Development Committee offered the following amendment:

*Amend SR 41 by striking "2005" from line 31 of page 2 and inserting in place thereof "2006".*

On the adoption of the amendment, the yeas were 31, nays 0, and the committee amendment was adopted.

The report of the committee, which was favorable to the adoption of the resolution as amended, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
E Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Thompson,C
E Fort	E Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 47, nays 0.

SR 41, having received the requisite constitutional majority, was adopted as amended.

Senator Whitehead of the 24th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

SR 818. By Senators Bulloch of the 11th, Tolleson of the 20th, Hooks of the 14th, Weber of the 40th, Whitehead, Sr. of the 24th and others:

A RESOLUTION creating the Senate Septage Disposal Study Committee; and for other purposes.

Senators Bulloch of the 11th and Kemp of the 46th offered the following amendment:

*Amend SR 818 by striking "ten" on line 2 of page 2 and inserting in lieu thereof "11".*

*By striking lines 11 and 12 of page 2 and inserting in lieu thereof the following:*

Division of the Department of Human Resources, one representative from the Sierra Club, and one representative from the Home Builders Association, all of whom shall be appointed by the presidents, directors, or commissioners of their

*By striking "ten" on line 31 of page 2 and inserting in lieu thereof "five".*

On the adoption of the amendment, the yeas were 31, nays 0, and the Bulloch, Kemp amendment was adopted.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to as amended.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
E Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Thompson,C
E Fort	E Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 48, nays 0.

SR 818, having received the requisite constitutional majority, was adopted as amended.

SR 34. By Senators Cagle of the 49th, Balfour of the 9th, Moody of the 56th, Carter of the 13th, Pearson of the 51st and others:

### A RESOLUTION

Proposing an amendment to the Constitution so as to provide that the sales and use tax for educational purposes may also be imposed in whole or in part for maintenance and operation of public schools with an equivalent millage rate reduction; to change certain imposition requirements; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article VIII, Section VI of the Constitution is amended by striking Paragraph IV and inserting in its place a new Paragraph IV to read as follows:

"Paragraph IV. *Sales tax for educational purposes.* (a)(1) The board of education of each school district in a county in which no independent school district is located may by resolution ~~and the board of education of each county school district and the board of education of each independent school district located within such county may by concurrent resolutions~~ impose, levy, and collect a sales and use tax for educational purposes of such school districts conditioned upon approval by a majority of the qualified voters residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

(2) The board of education of each county school district and the board of education of each independent school district located within such county may by concurrent resolutions impose, levy, and collect a sales and use tax for educational purposes of such school districts conditioned upon approval by a majority of the qualified voters residing within the limits of the local taxing jurisdiction voting in a referendum thereon. Such concurrent resolution shall only be required with respect to an independent school district, located wholly or partially in the county, when at least 25 percent of the total student enrollment of such independent school district is within such county. If less than 25 percent of the total student enrollment of such independent school is in a county, no concurrent resolution shall be required of that independent school district and the board of education of that county may levy the tax under the requirements of subparagraph (a)(1) of this Paragraph; provided, however, that such independent school district shall receive a share of the proceeds pursuant to subparagraph (i) of this Paragraph.

(3) This tax shall be at the rate of 1 percent and shall be imposed for a period of time not to exceed five years, but in all other respects, except as otherwise provided in this Paragraph, shall correspond to and be levied in the same manner as the tax provided for by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the special county 1 percent sales and use tax, as now or hereafter amended general law. Proceedings for the reimposition of such tax shall be in the same manner as proceedings for the initial imposition of the tax, but the newly authorized tax shall not be imposed until the expiration of the tax then in effect. The purpose or purposes for which the proceeds of the tax are to be used and may be expended shall depend upon which option of such tax is selected by the board or boards of education. Such option shall be specified in the resolution or concurrent resolution calling for the imposition of the tax.

(b) The option 1 purpose or purposes for which the proceeds of the tax are to be used and may be expended include:

- (1) Capital outlay projects for educational purposes;
- (2) The retirement of previously incurred general obligation debt with respect only to

capital outlay projects of the school system; provided, however, that the tax authorized under this Paragraph shall only be expended for the purpose authorized under this subparagraph (b)(2) if all ad valorem property taxes levied or scheduled to be levied prior to the maturity of any such then outstanding general obligation debt to be retired by the proceeds of the tax imposed under this Paragraph shall be reduced by a total amount equal to the total amount of proceeds of the tax imposed under this Paragraph to be applied to retire such bonded indebtedness. In the event of failure to comply with the requirements of this subparagraph (b)(2), as certified by the Department of Revenue, no further funds shall be expended under this subparagraph (b)(2) by such county or independent board of education and all such funds shall be maintained in a separate, restricted account and held solely for the expenditure for future capital outlay projects for educational purposes; or

(3) A combination of the foregoing.

(c) The option 2 purpose or purposes for which the proceeds of the tax are to be used and may be expended include the use of an amount equal to 25 percent of the amount of proceeds collected in each year in which the tax is levied for the reduction of the millage rate against tangible property within the school district for educational maintenance and operation purposes in an equivalent amount and the remaining 75 percent of such proceeds for:

(1) Capital outlay projects for educational purposes;

(2) The retirement of previously incurred general obligation debt with respect only to capital outlay projects of the school system; provided, however, that the tax authorized under this Paragraph shall only be expended for the purpose authorized under this subparagraph (c)(2) if all ad valorem property taxes levied or scheduled to be levied prior to the maturity of any such then outstanding general obligation debt to be retired by the proceeds of the tax imposed under this Paragraph shall be reduced by a total amount equal to the total amount of proceeds of the tax imposed under this Paragraph to be applied to retire such bonded indebtedness. In the event of failure to comply with the requirements of this subparagraph (c)(2), as certified by the Department of Revenue, no further funds shall be expended under this subparagraph (c)(2) by such county or independent board of education and all such funds shall be maintained in a separate, restricted account and held solely for the expenditure for future capital outlay projects for educational purposes; or

(3) A combination of the foregoing.

(d) The option 3 purpose for which the proceeds of the tax are to be used and may be expended shall be solely for the purpose of reducing the millage rate against tangible property within the school district for educational maintenance and operation purposes.

~~(e)~~(e) The resolution calling for the imposition of the tax and the ballot question shall each describe the option purposes, and if applicable:

(1) The specific capital outlay projects to be funded, or the specific debt to be retired, or both, if applicable;

(2) The maximum cost of such project or projects and, if applicable, the maximum amount of debt to be retired, which cost and amount of debt shall also be the

maximum amount of net proceeds to be raised by the tax; and

(3) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years.

~~(d)~~(f) Nothing in this Paragraph shall prohibit a county and those municipalities located in such county from imposing as additional taxes local sales and use taxes authorized by general law.

~~(e)~~(g) The tax imposed pursuant to this Paragraph shall not be subject to and shall not count with respect to any general law limitation regarding the maximum amount of local sales and use taxes which may be levied in any jurisdiction in this state.

~~(f)~~(h) The tax imposed pursuant to this Paragraph shall not be subject to any sales and use tax exemption with respect to the sale or use of food and beverages which is imposed by law.

~~(g)~~(i) The net proceeds of the tax shall be distributed between the county school district and the independent school districts, or portion thereof, located in such county according to the ratio the student enrollment in each school district, or portion thereof, bears to the total student enrollment of all school districts in the county ~~or upon such other formula for distribution as may be authorized by local law.~~

(j) For purposes of this ~~subparagraph~~ Paragraph, student enrollment shall be based on the latest FTE count prior to the referendum on imposing the tax.

~~(h)~~(k) Excess proceeds of the tax which remain following expenditure of proceeds for authorized projects or purposes for education under option 1 or option 2 shall be used solely for the purpose of reducing any indebtedness of the school system. In the event there is no indebtedness, such excess proceeds shall be used by such school system for the purpose of reducing its millage rate in an amount equivalent to the amount of such excess proceeds. For purposes of this subparagraph, excess proceeds shall also be deemed to include any interest earned with respect to the proceeds of the tax.

~~(i)~~(l) The tax authorized by this Paragraph may be imposed, levied, and collected as provided in this Paragraph without further action by the General Assembly, but the General Assembly shall be authorized by general law to further define and implement its provisions including, but not limited to, the authority to specify the percentage of net proceeds to be allocated among the projects and purposes for which the tax was levied and the manner and method of providing for the millage rollback under option 2 or option 3.

~~(j)~~(m)(1) Notwithstanding any provision of any constitutional amendment continued in force and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as otherwise provided in subparagraph ~~(j)~~(m)(2) of this Paragraph, any political subdivision whose ad valorem taxing powers are restricted pursuant to such a constitutional amendment may receive the proceeds of the tax authorized under this Paragraph or of any local sales and use tax authorized by general law, or any combination of such taxes, without any corresponding limitation of its ad valorem taxing powers which would otherwise be required under such constitutional amendment.

(2) The restriction on and limitation of ad valorem taxing powers described in

subparagraph ~~(j)~~(m)(1) of this Paragraph shall remain applicable with respect to proceeds received from the levy of a local sales and use tax specifically authorized by a constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general law."

## SECTION 2.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

- "( ) YES Shall the Constitution of Georgia be amended so as to provide that the sales and use tax for educational purposes may also be imposed in whole
- ( ) NO or in part for maintenance and operation of public schools with an equivalent millage rate reduction and to change the imposition requirements?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes." All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.

The Senate Finance Committee offered the following substitute to SR 34:

## A RESOLUTION

Proposing an amendment to the Constitution so as to provide that the sales and use tax for educational purposes may also be imposed in whole or in part for maintenance and operation of public schools with an equivalent millage rate reduction; to change certain imposition requirements; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

Article VIII, Section VI of the Constitution is amended by striking Paragraph IV and inserting in its place a new Paragraph IV to read as follows:

"Paragraph IV. ***Sales tax for educational purposes.*** (a)(1) The board of education of each school district in a county in which no independent school district is located may by resolution ~~and the board of education of each county school district and the board of education of each independent school district located within such county may by concurrent resolutions~~ impose, levy, and collect a sales and use tax for educational

purposes of such school districts conditioned upon approval by a majority of the qualified voters residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

(2) The board of education of each county school district and the board of education of each independent school district located within such county may by concurrent resolutions impose, levy, and collect a sales and use tax for educational purposes of such school districts conditioned upon approval by a majority of the qualified voters residing within the limits of the local taxing jurisdiction voting in a referendum thereon. Such concurrent resolution shall only be required with respect to an independent school district, located wholly or partially in the county, when at least 10 percent of the total student enrollment of such independent school district is within such county. If less than 10 percent of the total student enrollment of such independent school is in a county, no concurrent resolution shall be required of that independent school district and the board of education of that county may levy the tax under the requirements of subparagraph (a)(1) of this Paragraph; provided, however, that such independent school district shall receive a share of the proceeds pursuant to subparagraph (i) of this Paragraph.

(3) This tax shall be at the rate of 1 percent and shall be imposed for a period of time not to exceed five years, but in all other respects, except as otherwise provided in this Paragraph, shall correspond to and be levied in the same manner as the tax provided for by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the special county 1 percent sales and use tax, as now or hereafter amended general law. Proceedings for the reimposition of such tax shall be in the same manner as proceedings for the initial imposition of the tax, but the newly authorized tax shall not be imposed until the expiration of the tax then in effect. The purpose or purposes for which the proceeds of the tax are to be used and may be expended shall depend upon which option of such tax is selected by the board or boards of education. Such option shall be specified in the resolution or concurrent resolution calling for the imposition of the tax.

(b) The option 1 purpose or purposes for which the proceeds of the tax are to be used and may be expended include:

(1) Capital outlay projects for educational purposes;

(2) The retirement of previously incurred general obligation debt with respect only to capital outlay projects of the school system; provided, however, that the tax authorized under this Paragraph shall only be expended for the purpose authorized under this subparagraph (b)(2) if all ad valorem property taxes levied or scheduled to be levied prior to the maturity of any such then outstanding general obligation debt to be retired by the proceeds of the tax imposed under this Paragraph shall be reduced by a total amount equal to the total amount of proceeds of the tax imposed under this Paragraph to be applied to retire such bonded indebtedness. In the event of failure to comply with the requirements of this subparagraph (b)(2), as certified by the Department of Revenue, no further funds shall be expended under this subparagraph (b)(2) by such county or independent board of education and all such funds shall be

maintained in a separate, restricted account and held solely for the expenditure for future capital outlay projects for educational purposes; or

(3) A combination of the foregoing.

(c) The option 2 purpose or purposes for which the proceeds of the tax are to be used and may be expended include the use of an amount equal to 25 percent of the amount of proceeds collected in each year in which the tax is levied for the reduction of the millage rate against tangible property within the school district for educational maintenance and operation purposes in an equivalent amount and the remaining 75 percent of such proceeds for:

(1) Capital outlay projects for educational purposes;

(2) The retirement of previously incurred general obligation debt with respect only to capital outlay projects of the school system; provided, however, that the tax authorized under this Paragraph shall only be expended for the purpose authorized under this subparagraph (c)(2) if all ad valorem property taxes levied or scheduled to be levied prior to the maturity of any such then outstanding general obligation debt to be retired by the proceeds of the tax imposed under this Paragraph shall be reduced by a total amount equal to the total amount of proceeds of the tax imposed under this Paragraph to be applied to retire such bonded indebtedness. In the event of failure to comply with the requirements of this subparagraph (c)(2), as certified by the Department of Revenue, no further funds shall be expended under this subparagraph (c)(2) by such county or independent board of education and all such funds shall be maintained in a separate, restricted account and held solely for the expenditure for future capital outlay projects for educational purposes; or

(3) A combination of the foregoing.

(d) The option 3 purpose for which the proceeds of the tax are to be used and may be expended shall be solely for the purpose of reducing the millage rate against tangible property within the school district for educational maintenance and operation purposes.

~~(e)~~(e) The resolution calling for the imposition of the tax and the ballot question shall each describe the option purposes, and if applicable:

(1) The specific capital outlay projects to be funded, or the specific debt to be retired, or both, if applicable;

(2) The maximum cost of such project or projects and, if applicable, the maximum amount of debt to be retired, which cost and amount of debt shall also be the maximum amount of net proceeds to be raised by the tax; and

(3) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years.

~~(d)~~(f) Nothing in this Paragraph shall prohibit a county and those municipalities located in such county from imposing as additional taxes local sales and use taxes authorized by general law.

~~(e)~~(g) The tax imposed pursuant to this Paragraph shall not be subject to and shall not count with respect to any general law limitation regarding the maximum amount of local sales and use taxes which may be levied in any jurisdiction in this state.

~~(f)~~(h) The tax imposed pursuant to this Paragraph shall not be subject to any sales and

use tax exemption with respect to the sale or use of food and beverages which is imposed by law.

~~(g)~~(i) The net proceeds of the tax shall be distributed between the county school district and the independent school districts, or portion thereof, located in such county according to the ratio the student enrollment in each school district, or portion thereof, bears to the total student enrollment of all school districts in the county ~~or upon such other formula for distribution as may be authorized by local law.~~

(j) For purposes of this ~~subparagraph~~ Paragraph, student enrollment shall be based on the latest FTE count prior to the referendum on imposing the tax.

~~(h)~~(k) Excess proceeds of the tax which remain following expenditure of proceeds for authorized projects or purposes for education under option 1 or option 2 shall be used solely for the purpose of reducing any indebtedness of the school system. In the event there is no indebtedness, such excess proceeds shall be used by such school system for the purpose of reducing its millage rate in an amount equivalent to the amount of such excess proceeds. For purposes of this subparagraph, excess proceeds shall also be deemed to include any interest earned with respect to the proceeds of the tax.

~~(i)~~(l) The tax authorized by this Paragraph may be imposed, levied, and collected as provided in this Paragraph without further action by the General Assembly, but the General Assembly shall be authorized by general law to further define and implement its provisions including, but not limited to, the authority to specify the percentage of net proceeds to be allocated among the projects and purposes for which the tax was levied and the manner and method of providing for the millage rollback under option 2 or option 3.

~~(j)~~(m)(1) Notwithstanding any provision of any constitutional amendment continued in force and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as otherwise provided in subparagraph ~~(j)~~(m)(2) of this Paragraph, any political subdivision whose ad valorem taxing powers are restricted pursuant to such a constitutional amendment may receive the proceeds of the tax authorized under this Paragraph or of any local sales and use tax authorized by general law, or any combination of such taxes, without any corresponding limitation of its ad valorem taxing powers which would otherwise be required under such constitutional amendment.

(2) The restriction on and limitation of ad valorem taxing powers described in subparagraph ~~(j)~~(m)(1) of this Paragraph shall remain applicable with respect to proceeds received from the levy of a local sales and use tax specifically authorized by a constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general law."

## SECTION 2.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

- "( ) YES Shall the Constitution of Georgia be amended so as to provide that the sales and use tax for educational purposes may also be imposed in whole  
 ( ) NO or in part for maintenance and operation of public schools with an equivalent millage rate reduction and to change the imposition requirements?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes." All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.

On the adoption of the substitute, the yeas were 36, nays 9, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution proposing an amendment to the Constitution, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	N Starr
N Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
E Fort	Y Mullis	N Thompson,S
Y Goggans	Y Pearson	Y Tolleson
N Golden	N Powell	N Unterman
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 33, nays 21.

SR 34, having failed to receive the requisite two-thirds constitutional majority, was lost.

Senator Kemp of the 46th recognized Firefighters of Georgia, commended by SR 673, adopted previously.

The following resolution was read and adopted:

SR 1130. By Senators Butler of the 55th, Tate of the 38th, Miles of the 43rd and Seay of the 34th:

A RESOLUTION commending the Metropolitan Atlanta Chapter of the National Coalition of 100 Black Women, Inc.; and for other purposes.

Senator Butler of the 55th recognized representatives of the Metropolitan Atlanta Chapter of the National Coalition of 100 Black Women Inc., commended by SR 1130.

Senators Jones of the 10th and Reed of the 35th recognized Kappa Alpha Psi fraternity. James Freeman addressed the Senate briefly.

The Calendar was resumed.

SR 838. By Senator Schaefer of the 50th:

A RESOLUTION to urge and support the full funding of state and local efforts to clean up hazardous waste sites and properly address waste-related activities, and control erosion and sedimentation; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Tolleson
Y Golden	Y Powell	Y Unterman

Y Grant	Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 51, nays 0.

SR 838, having received the requisite constitutional majority, was adopted.

Senator Williams of the 19th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

Senator Powell of the 23rd asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

Senator Rogers of the 21st asked unanimous consent that Senator Tolleson of the 20th be excused. The consent was granted, and Senator Tolleson was excused.

SB 503. By Senators Hamrick of the 30th and Hill of the 4th:

A BILL to be entitled an Act to amend Chapter 21A of Title 15, Title 17, and Code Section 42-8-34.1 of the O.C.G.A., relating respectively to judicial accounting, criminal procedure, and to legal defense for indigents, requirements for revocation of probated or suspended sentence, so as to change certain provisions relating to the Georgia Public Defender Standards Council and the provision of legal services to indigent persons; to clarify that the application fee for indigent defense services is not a prerequisite to obtaining legal services; to specify the types of standards that shall be submitted to the General Oversight Committee for the Georgia Public Defender Standards Council; to change certain provisions relating to the budget for the Office of the Georgia Capital Defender; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The Senate Judiciary Committee offered the following substitute to SB 503:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 21A of Title 15 and Title 17 of the Official Code of Georgia Annotated, relating respectively to judicial accounting and criminal procedure, so as to change certain provisions relating to the Georgia Public Defender Standards Council and

the provision of legal services to indigent persons; to clarify that the application fee for indigent defense services is not a prerequisite to obtaining legal services; to provide that such fee may be paid as a condition of probation; to provide for staggered terms for the councilmembers of the Georgia Public Defender Standards Council; to change certain provisions relating to the budget of the council; to change certain provisions relating to contracting with the Department of Administrative Services for personnel paid by local governments; to provide eligibility standards to determine who may receive representation under Chapter 12 of Title 17; to change certain provisions relating to the budget for the Office of the Georgia Capital Defender; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

Chapter 21A of Title 15 of the Official Code of Georgia Annotated, relating to judicial accounting, is amended by striking subsections (b) and (e) of Code Section 15-21A-6, relating to additional filing fees and application fee for free legal services, and inserting in lieu thereof the following:

"(b) Any person who applies for or receives legal defense services under Chapter 12 of Title 17 shall pay the entity providing the services a single fee of \$50.00 for the application for, receipt of, or application for and receipt of such services. The application fee may not be imposed if the payment of the fee is waived by the court. The court shall waive the fee if it finds that the applicant is unable to pay the fee or that hardship will result if the fee is charged. If the application fee required by this subsection has not been paid or waived at the time the defendant is sentenced, the court shall impose such fee as a condition of probation."

"(e) A public entity other than an entity providing legal defense services under Chapter 12 of Title 17 may charge, in addition to any other fee or surcharge authorized by law, a \$50.00 application fee unless waived by the court for inability to pay or hardship. If the application fee required by this subsection has not been paid or waived at the time the defendant is sentenced, the court shall impose such fee as a condition of probation. Any such fee shall be retained by the entity providing the services or used as otherwise provided by law and shall not be subject to payment to the authority or deposit into the state treasury."

### SECTION 2.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended in Chapter 10, relating to sentence and punishment, by adding a new Code section to read as follows:

"17-10-8.1.

In any case in which a defendant receives legal defense services pursuant to Chapter 12 of Title 17 where the defendant has not paid the application fee required by Code

Section 15-21A-6 and the court has not waived such fee at the time of sentencing, the court shall impose such fee as a condition of probation."

### SECTION 3.

Said title is further amended by striking Code Section 17-12-3, relating to the Georgia Public Defender Standards Council's creation and membership, and inserting in lieu thereof the following:

"17-12-3.

(a) There is created the Georgia Public Defender Standards Council to be composed of 11 members.

(b) Ten members ~~The membership~~ of the council shall be appointed as follows:

(1) Two members shall be appointed by the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court of Georgia, and the Chief Judge of the Georgia Court of Appeals as further set forth in paragraph (2) of this subsection. The members of the council shall be individuals with significant experience working in the criminal justice system or who have demonstrated a strong commitment to the provision of adequate and effective representation of indigent defendants. The These members shall serve terms of four years; provided, however, that the members appointed from the even-numbered judicial administration circuits shall serve initial terms of six years and thereafter shall serve terms of four years;

(2) The members appointed pursuant to paragraph (1) of this subsection shall be chosen so that each of the ten judicial administration districts in the state is represented and so that each appointing authority shall rotate the particular judicial administration district for which he or she is responsible for appointing. The appointments shall be as follows:

(A) For the initial appointments:

- (i) The Governor shall appoint one person who resides in judicial administration district 1 and one person who resides in judicial administration district 2;
- (ii) The Lieutenant Governor shall appoint one person who resides in judicial administration district 3 and one person who resides in judicial administration district 4;
- (iii) The Speaker of the House of Representatives shall appoint one person who resides in judicial administration district 5 and one person who resides in judicial administration district 6;
- (iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who resides in judicial administration district 7 and one person who resides in judicial administration district 8; and
- (v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who resides in judicial administration district 9 and one person who resides in judicial administration district 10;

(B) For the first subsequent council appointments:

- (i) The Governor shall appoint one person who resides in judicial administration

district 3 and one person who resides in judicial administration district 4;

(ii) The Lieutenant Governor shall appoint one person who resides in judicial administration district 5 and one person who resides in judicial administration district 6;

(iii) The Speaker of the House of Representatives shall appoint one person who resides in judicial administration district 7 and one person who resides in judicial administration district 8;

(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who resides in judicial administration district 9 and one person who resides in judicial administration district 10; and

(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who resides in judicial administration district 1 and one person who resides in judicial administration district 2;

(C) For the second subsequent council appointments:

(i) The Governor shall appoint one person who resides in judicial administration district 5 and one person who resides in judicial administration district 6;

(ii) The Lieutenant Governor shall appoint one person who resides in judicial administration district 7 and one person who resides in judicial administration district 8;

(iii) The Speaker of the House of Representatives shall appoint one person who resides in judicial administration district 9 and one person who resides in judicial administration district 10;

(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who resides in judicial administration district 1 and one person who resides in judicial administration district 2; and

(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who resides in judicial administration district 3 and one person who resides in judicial administration district 4;

(D) For the third subsequent council appointments:

(i) The Governor shall appoint one person who resides in judicial administration district 7 and one person who resides in judicial administration district 8;

(ii) The Lieutenant Governor shall appoint one person who resides in judicial administration district 9 and one person who resides in judicial administration district 10;

(iii) The Speaker of the House of Representatives shall appoint one person who resides in judicial administration district 1 and one person who resides in judicial administration district 2;

(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who resides in judicial administration district 3 and one person who resides in judicial administration district 4; and

(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who resides in judicial administration district 5 and one person who resides in judicial administration district 6; and

(E) For the fourth subsequent council appointments:

- (i) The Governor shall appoint one person who resides in judicial administration district 9 and one person who resides in judicial administration district 10;
- (ii) The Lieutenant Governor shall appoint one person who resides in judicial administration district 1 and one person who resides in judicial administration district 2;
- (iii) The Speaker of the House of Representatives shall appoint one person who resides in judicial administration district 3 and one person who resides in judicial administration district 4;
- (iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who resides in judicial administration district 5 and one person who resides in judicial administration district 6; and
- (v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who resides in judicial administration district 7 and one person who resides in judicial administration district 8.

All subsequent appointments shall continue on, with the entire cycle starting over again as specified in subparagraph (A) of this paragraph;

(3) In addition, ~~there~~ the eleventh member shall be one circuit public defender who shall serve on the council. After the initial appointments as set forth in paragraph (4) of this subsection, the circuit public defender to serve on the council shall be elected by a majority vote of all the circuit public defenders. The circuit public defender councilmember shall serve terms of two years;

(4) All initial appointments shall be made to become members of the council on July 1, 2003, and their successors shall become members of the council on July 1 following their appointment. The initial appointees from the even-numbered judicial administration circuits shall serve until June 30, 2009. Notwithstanding the provisions of paragraph (3) of this subsection, the initial member representing the circuit public defenders shall be made by the Supreme Court of Georgia. The person representing the circuit defender position on the initial council shall be engaged on a full-time basis in the provision of criminal defense to the indigent;

(5) Any vacancy for a member appointed pursuant to paragraphs (1) and (2) of this subsection shall be filled by the appointing authority, and such appointee shall serve the balance of the vacating member's unexpired term; and

(6) Any vacancy for a member appointed pursuant to paragraph (3) of this subsection shall be the successor to the circuit public defender as set forth in subsection (d) of Code Section 17-12-20.

(c) In making these appointments, the appointing authorities shall seek to identify and appoint persons who represent a diversity of backgrounds and experience and shall solicit suggestions from the State Bar of Georgia, state and local bar associations, the Georgia Association of Criminal Defense Lawyers, the councils representing the various categories of state court judges in Georgia, and the Prosecuting Attorneys' Council of the State of Georgia, as well as from the public and other interested organizations and individuals within the state. The appointing authorities shall not

appoint a prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any employee of a prosecuting attorney's office, or an employee of the Prosecuting Attorneys' Council of the State of Georgia to serve on the council.

(d) This Code section shall become effective on July 1, 2003, for purposes of making the initial appointments to the council."

#### SECTION 4.

Said title is further amended by striking subsection (a) of Code Section 17-12-24, relating to guidelines for determining indigency, and inserting in lieu thereof the following:

"(a) ~~The council shall establish guidelines for determining the financial eligibility of persons claiming indigence, and the circuit public defender and any other person or entity providing indigent defense services shall use the guidelines to determine the financial eligibility of any person or juvenile arrested, detained, or charged in any manner that would entitle him or her to representation under this article.~~ For purposes of determining the eligibility of persons claiming indigency and arrested, detained, or charged in any manner that would entitle him or her to representation under this chapter, the following shall apply:

(1) A person charged with a misdemeanor, violation of probation, or a municipal, county, or juvenile offense punishable by imprisonment who earns or, in the case of a juvenile, whose parents earn, less than 125 percent of the federal poverty guidelines is entitled to legal representation under this chapter unless there is evidence that the person has other resources that might reasonably be used to employ a lawyer without undue hardship on the person or his or her dependents;

(2) A person charged with a felony who earns or, in the case of a juvenile, whose parents earn, less than 150 percent of the federal poverty guidelines is entitled to legal representation under this chapter unless there is evidence that the person has other resources that might reasonably be used to employ a lawyer without undue hardship on the person or his or her dependents; and

(3) In no case shall a person whose maximum income level exceeds 150 percent of the federal poverty level or, in the case of a juvenile, whose household income exceeds 150 percent of the federal poverty level be entitled to representation under this chapter."

#### SECTION 5.

Said title is further amended by striking subsection (b) of Code Section 17-12-26, relating to the budget of the council, and inserting in lieu thereof the following:

"(b) The budget of the council shall include the budget of all circuit public defenders and other offices and entities, including conflict defender offices and appointed attorneys providing indigent defense representation under the authority of this article and the ~~multicounty public defender office~~ Office of the Georgia Capital Defender and the office of the mental health advocate."

**SECTION 6.**

Said title is further amended by striking Code Section 17-12-32, relating to contracting with the Department of Administrative Services for personnel paid by local governments, and inserting in lieu thereof the following:

"17-12-32.

The governing authority of any county or municipality within the judicial circuit which provides additional personnel for the office of circuit public defender may contract with the ~~Department of Administrative Services~~ council to provide such additional personnel in the same manner as is provided for state paid personnel in this article. Any such personnel shall be considered state employees and shall be entitled to the same fringe benefits as other state paid personnel employed by the circuit public defender pursuant to this article. The governing authority of such county or municipality shall transfer to the ~~department~~ council such funds as may be necessary to cover the compensation, benefits, travel, and other expenses for such personnel."

**SECTION 7.**

Said title is further amended by striking Code Section 17-12-124, relating to the budget for the Office of the Georgia Capital Defender, and inserting in lieu thereof the following:

"17-12-124.

The council shall prepare an annual budget showing all anticipated expenses of the office for the following fiscal year, which shall be the same as the fiscal year of this state. The budget shall be submitted by the capital defender to the council and for Fiscal Year 2005 and thereafter shall include the proposed budget for representation of all indigent persons accused of a capital felony for which the death penalty is or is likely to be sought."

**SECTION 8.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 9.**

All laws and parts of laws in conflict with this Act are repealed.

Senators Kemp of the 46th, Hudgens of the 47th, Wiles of the 37th, Harp of the 29th, Powell of the 23rd and Mullis of the 53rd offered the following amendment:

*Amend the Senate Judiciary Committee substitute to SB 503 (LC 29 2319S) by inserting after "council;" on line 8 of page 1 the following:*

to provide that public defenders shall not be authorized to utilize a badge, shield, or similar item; to change certain provisions relating to public defenders;

By inserting between lines 2 and 3 of page 7 the following:

**SECTION 5.1.**

Said title is further amended by striking subsection (g) of Code Section 17-12-27, relating to the appointment of assistant public defenders, salary, and promotions, and inserting a new subsection (g) to read as follows:

"(g) All full-time state paid employees of the office of the circuit public defender shall be state employees in the unclassified service of the State Merit System of Personnel Administration with all benefits of such appointed state employees as provided by law. A circuit public defender, assistant public defender, or local public defender may be issued an employee identification card by his or her employing agency; provided, however, no employer of any such public defender shall issue nor shall any public defender display, wear, or carry any badge, shield, card, or other item that is similar to a law enforcement officer's badge or that could be reasonably construed to indicate that the public defender is a peace officer or law enforcement official."

On the adoption of the amendment, the yeas were 34, nays 0, and the Kemp et al. amendment was adopted.

On the adoption of the substitute, the yeas were 39, nays 0, and the committee substitute was adopted as amended.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	E Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead

Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 53, nays 0.

SB 503, having received the requisite constitutional majority, was passed by substitute.

Senator Whitehead of the 24th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

Senator Reed of the 35th asked unanimous consent that Senator Miles of the 43rd be excused. The consent was granted, and Senator Miles was excused.

SB 495. By Senators Mullis of the 53rd and Shafer of the 48th:

A BILL to be entitled an Act to amend Chapter 2 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of fire and other hazards to persons and property generally, so as to provide an increase in fees and charges and provide a fee for blaster certification cards; to require a license prior to conducting blast hole drilling; to amend Chapter 8 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of blasting operations generally, so as to provide additional definitions; to require a license for blast hole drilling; to require liability insurance for licensed blasters; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	E Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C

Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Grant	Y Reed	Y Weber
Y Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 49, nays 0.

SB 495, having received the requisite constitutional majority, was passed.

SB 573. By Senators Carter of the 13th and Cagle of the 49th:

A BILL to be entitled an Act to amend Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of specialized land transactions, so as to provide that the seller may withdraw escrow funds in excess of 1 percent of the purchase price of a condominium in order to fund construction and development of the condominium property; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	E Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber

Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 51, nays 1.

SB 573, having received the requisite constitutional majority, was passed.

SB 570. By Senator Carter of the 13th:

A BILL to be entitled an Act to amend Code Section 40-8-73.1 of the Official Code of Georgia Annotated, relating to affixing of materials which reduce light transmission or increase light reflectance through windows or windshields of motor vehicles, so as to authorize a person who is a certified optometrist to provide an attestation in support of a medical exemption for restrictions to limitations on reducing light transmission or increasing light reflectance on windows of motor vehicles; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	E Miles	Y Thomas,R
Y Douglas	Y Moody	Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead

Y Harbison  
Y Harp  
Y Heath  
Y Henson

Y Schaefer  
Y Seabaugh  
Y Seay  
Y Shafer,D

Y Wiles  
Y Williams  
Y Zamarripa

On the passage of the bill, the yeas were 51, nays 0.

SB 570, having received the requisite constitutional majority, was passed.

SB 177. By Senators Tate of the 38th and Fort of the 39th:

A BILL to be entitled an Act to amend Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to the Teachers Retirement System of Georgia, so as to change the benefit formula for the Teachers Retirement System of Georgia from 2 percent to 2.5 percent; to provide a postretirement benefit adjustment; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

The Senate Retirement Committee offered the following substitute to SB 177:

A BILL TO BE ENTITLED  
AN ACT

To amend Part 10 of Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to membership in the Employees' Retirement System of Georgia by employees of certain state authorities and commissions, so as to define certain terms; to provide that all current and future employees of the State Road and Tollway Authority shall become members of such retirement system; to provide for status; to provide for employer and employee contributions; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Part 10 of Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to membership in the Employees' Retirement System of Georgia by employees of certain state authorities and commissions, is amended by inserting at the end thereof the following:

"47-2-327.

(a) As used in this Code section, the term 'State Road and Tollway Authority' or 'authority' means that authority continued by Article 2 of Chapter 10 of Title 32, relating to the State Road and Tollway Authority.

(b) Effective July 1, 2006, or on the date of employment, whichever date is later, each

officer or employee of the authority shall become a member of the retirement system.

(c) Any officer or employee of the authority who was already a member of the retirement system on July 1, 2006, and any member of the retirement system who, without any break in service, becomes an officer or employee of the authority on or after July 1, 2006, shall continue in the same membership status without any interruption in membership service and without the loss of any creditable service.

(d) Except as otherwise provided in subsection (c) of this Code section, an officer or employee of the authority becoming a member of the retirement system pursuant to the provisions of this Code section shall be subject to the provisions of Code Section 47-2-334.

(e) All employer contributions, including employee contributions made by the employer on behalf of members, which are required by this chapter shall be made for members who are subject to the provisions of this Code section from funds appropriated to or otherwise available for the operation of the State Road and Tollway Authority. The authority shall deduct from the salaries payable to such members the additional employee contributions required by this chapter."

## **SECTION 2.**

This Act shall become effective on July 1, 2006, only if it is determined to have been concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not become effective and shall be automatically repealed in its entirety on July 1, 2006, as required by subsection (a) of Code Section 47-20-50.

## **SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.

The following Fiscal Note, as required by law, was read by the Secretary:



## **Department of Audits and Accounts**

270 Washington Street, S.W., Suite 1-156  
Atlanta, Georgia 30334-8400

Russell W. Hinton  
State Auditor  
(404) 656-2174

February 16, 2006

The Honorable Horacena Tate  
State Senator  
State Capitol, Room 110  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
Substitute to Senate Bill 177  
(LC 21 8731S)

Dear Senator Tate:

This bill would amend provisions relating to membership in the Employees' Retirement System. Specifically, this bill would specify that all employees and officers of the State Road and Tollway Authority shall become members of the Employees' Retirement System. Membership would be awarded to all persons who are in such positions on July 1, 2006, and to all persons who become employed by the Authority after such date. Furthermore, this bill authorizes any member of the Employees' Retirement System who becomes employed by the Authority on or after July 1, 2006 to retain membership in the System.

This is to certify that the changes made in this substitute bill are a reduction in cost amendment as defined in the Public Retirement Systems Standards Law. The actuarial investigation and the State Auditor's Summary for the substitute bill are attached.

Respectfully,

/s/ Russell W. Hinton  
State Auditor



## **Department of Audits and Accounts**

270 Washington Street, S.W., Suite 1-156  
Atlanta, Georgia 30334-8400

Russell W. Hinton  
State Auditor  
(404) 656-2174

February 16, 2006

Honorable Bill Heath, Chairman  
 Senate Retirement Committee  
 Paul D. Coverdell Office Building, Room 304-B  
 Atlanta, Georgia 30334

SUBJECT: Actuarial Investigation  
 Senate Bill 177 (LC 21 8731S)  
 Employees' Retirement System

Dear Chairman Heath:

This bill would amend provisions relating to membership in the Employees' Retirement System. Specifically, this bill specifies that all employees and officers of the State Road and Tollway Authority shall become members of the Employees' Retirement System. Membership would be awarded to all persons who are in such positions on July 1, 2006, and to all persons who become employed by the Authority after such date. Furthermore, this bill authorizes any member of the Employees' Retirement System who becomes employed by the Authority on or after July 1, 2006 to retain membership in the System.

This bill would not result in any additional cost to the State. Currently, all persons who work for the State Road and Tollway Authority are officially employees of the Department of Transportation, and therefore, members of the Employees' Retirement System. This bill would allow them to retain their membership once such persons become official employees of the State Road and Tollway Authority. There would be no increase in the unfunded actuarial accrued liability or the employer contribution rate as a result of this bill.

The following is a summary of the relevant findings of the actuarial investigation for this bill pursuant to a request by the Senate Retirement Committee. The investigation was to be conducted according to O.C.G.A. 47-20-36, which outlines the factors to be considered in an actuarial investigation. The figures are based on employee data and the most recent actuarial assumptions and methods.

- |     |  |             |
|-----|--|-------------|
| (1) | The amount of the unfunded actuarial accrued liability which will result from the bill.                            | \$ <u>0</u> |
| (2) | The amount of the annual amortization of the unfunded actuarial accrued liability which will result from the bill. | \$ <u>0</u> |

- |     |   |        |
|-----|---|--------|
| (3) | The number of years that the unfunded actuarial accrued liability created by this bill would be amortized.  | N/A    |
| (4) | The amount of the annual normal cost which will result from the bill.   | \$ 0   |
| (5) | The employer contribution rate currently in effect.   | 10.41% |
| (6) | The employer contribution rate recommended (in conformity with minimum funding standards specified in Code Section 47-20-10).                                 | 10.41% |
| (7) | The dollar amount of the increase in the annual employer contribution which is necessary to maintain the retirement system in an actuarially sound condition. | \$ 0   |

It should be noted that any subsequent changes in the retirement bill will invalidate the actuarial investigation and the findings included therein.

Respectfully,

/s/ Russell W. Hinton  
State Auditor

On the adoption of the substitute, the yeas were 35, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R

Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 55, nays 0.

SB 177, having received the requisite constitutional majority, was passed by substitute.

SB 420. By Senators Unterman of the 45th, Schaefer of the 50th, Johnson of the 1st, Thomas of the 2nd, Harp of the 29th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody proceedings, so as to provide for the creation, authorization, procedure, revocation, and termination of a power of attorney from a parent to a grandparent for the care of a grandchild; to provide for short titles; to provide definitions; to provide for the creation of a pilot program to provide a subsidy to certain grandparents raising grandchildren under certain circumstances; to provide for an assessment and evaluation of the pilot program; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Senate Judiciary Committee offered the following substitute to SB 420:

#### A BILL TO BE ENTITLED AN ACT

To amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody proceedings, so as to provide for the creation, authorization, procedure, revocation, and termination of a power of attorney from a parent to a grandparent for the care of a grandchild; to provide for short titles; to provide definitions; to provide for the creation of a pilot program to provide a subsidy to certain grandparents raising grandchildren under certain circumstances; to provide for an assessment and evaluation of the pilot program; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "Care of a Grandchild Act."

**SECTION 2.**

The General Assembly finds that:

- (1) An increasing number of relatives in Georgia, including grandparents and great-grandparents, are providing care to children who cannot reside with their parents due to the parents' incapacity or inability to perform the regular and expected functions in the care and support of the children;
- (2) Parents need a means to allow grandparents and great-grandparents to have authority to act on behalf of grandchildren and great-grandchildren without legal intervention;
- (3) Grandparents and great-grandparents caring for their grandchildren and great-grandchildren under these circumstances often do not have sufficient financial resources to provide for such children; and
- (4) Providing both a statutory mechanism for granting authority and limited financial support under certain circumstances for these grandparents and great-grandparents caring for their grandchildren and great-grandchildren enhances family preservation and stability.

**SECTION 3.**

Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody proceedings, is amended by adding a new Article 4 to read as follows:

**"ARTICLE 4**

**Part 1**

19-9-120.

This part shall be known and may be cited as the 'Power of Attorney for the Care of a Minor Child Act.'

19-9-121.

(a) As used in this part, the term:

(1) 'School' means:

- (A) Any county or independent school system as defined in Code Section 20-1-9;
- (B) Any private school as such term is defined in code Section 20-2-690;
- (C) A home study program meeting the requirements set forth in subsection (c) of Code Section 20-2-690;
- (D) Pre-kindergarten programs; or
- (E) Early care and education programs as such term is defined in paragraph (6) of Code Section 20-1A-2.

(2) 'Serious illness' means a physical or mental illness as determined by a licensed health care professional, including a psychiatrist or psychologist, that causes the parent to be unable to care for the minor child due to the physical or mental condition or health of the parent including a condition created by medical treatment.

(3) 'Terminal illness' has the same meaning as the term 'terminal condition' as provided in paragraph (13) of Code Section 31-32-2.

(b) A parent or parents of a minor child may delegate to any grandparent or great-grandparent residing in this state caregiving authority regarding the minor child when hardship prevents the parent or parents from caring for the child. This authority may be delegated without the approval of a court by executing in writing a power of attorney for the care of a minor child in a form substantially complying with the provisions of this part.

(c)(1) Hardships may include, but are not limited to:

(A) The death, serious illness, terminal illness, or incarceration of a parent;

(B) The physical or mental condition of the parent or the child such that care and supervision of the child cannot be provided by the parent;

(C) The loss or uninhabitability of the child's home as the result of a natural disaster; and

(D) One or both parents are on active military duty.

(2) Hardship shall not include the granting of a power of attorney for the care of a minor child for the purpose of subverting an investigation of the child's welfare by the Department of Human Resources or other agency responsible for such investigations.

(d) The instrument providing for the power of attorney shall be executed by both parents, if both parents are living and have legal custody of the minor child, and shall state with specificity the details of the hardship preventing the parent or parents from caring for the child.

(e) If only one parent has legal custody of the minor child, then such parent shall execute the instrument. The noncustodial parent shall be notified in writing of the name and address of the grandparent or great-grandparent who has been appointed the agent under the power of attorney. The executing parent shall send the notification by certified mail, return receipt requested, or by statutory overnight delivery to the noncustodial parent at the noncustodial parent's last known address.

(f) The power of attorney for the care of a minor child shall be signed and acknowledged before a notary public by the parent or parents, as the case may be, executing the power of attorney.

(g) Through the power of attorney for the care of a minor child, the parent may authorize the agent grandparent or great-grandparent to perform the following functions without limitation:

(1) Enroll the child in school and extracurricular activities;

(2) Obtain medical, dental, and mental health treatment for the child; and

(3) Provide for the child's food, lodging, housing, recreation, and travel.

Nothing contained in this Code section shall be construed to limit the power of the parent to grant additional powers to the agent grandparent or great-grandparent.

- (h) The agent grandparent or great-grandparent shall have the right to enroll the minor child in a school serving the area where the agent grandparent or great-grandparent resides. The school shall allow such agent grandparent or great-grandparent with a properly executed power of attorney for care of a minor child to enroll the minor child. Prior to enrollment, the school may require documentation of the minor child's residence with such agent grandparent or great-grandparent and verification of the validity of the stated hardship. Except where limited by federal law, the agent grandparent or great-grandparent shall have the same rights, duties, and responsibilities that would otherwise be exercised by the parent or parents pursuant to the laws of this state.
- (i) If the minor child ceases to reside with the agent grandparent or great-grandparent, the agent grandparent or great-grandparent shall notify any person, school, or health care provider that has been provided the power of attorney for care of a minor child that the child no longer resides with the agent grandparent or great-grandparent.
- (j) The agent grandparent or great-grandparent shall have the authority to act on behalf of the minor child until the parent or parents, as the case may be, who executed the power of attorney for care of a minor child revoke the power of attorney in writing.
- (k) The power of attorney for care of a minor child may also be terminated by any order of a court of competent jurisdiction that appoints a legal guardian or legal custodian.
- (l) An agent grandparent or great-grandparent under a power of attorney for care of a minor child shall act in the best interests of the minor child. Such agent grandparent or great-grandparent shall not be liable for consenting or refusing to consent to medical, dental, or mental health care for a minor child when such decision is made in good faith and is exercised in the best interests of the minor child.
- (m) No person, school official, or health care provider who acts in good faith reliance on a power of attorney for care of a minor child shall be subject to criminal or civil liability or professional disciplinary action for such reliance.
- (n) A person who relies on the written power of attorney for care of a minor child has no obligation to make any further inquiry or investigation. Nothing in this part shall relieve any individual from liability for violations of other provisions of law.
- (o) Each parent who executes the power of attorney for care of a minor child shall certify that such action is not for the primary purpose of enrolling the child in a school so that the child may participate in the academic or interscholastic athletic programs provided by that school or for any other unlawful purpose. Violation of this subsection shall be punishable in accordance with Georgia law and shall require, in addition to any other remedies, repayment by such parent of all costs incurred by the school as a result of the violation.
- (p) The power of attorney for care of a minor child is not intended to replace the temporary written grant of permission to seek emergency medical treatment or other services for a minor child while in the custody of an adult who is not the parent and who is temporarily supervising the child at the parent's request.

19-9-122.

(a) The statutory power of attorney for care of a minor child form contained in this Code section may be used to grant an agent grandparent or great-grandparent powers with respect to the minor child's registration for school and medical, dental, and mental health care and is not intended to be exclusive. No provision of this part shall be construed to bar use by the parent of any other or different form of power of attorney for care of a minor child that complies with this part. If a different power of attorney for care of a minor child is used, it may contain any or all of the provisions set forth or referred to in this Code section. When a power of attorney for care of a minor child in substantially the form set forth in this Code section is used, it shall have the same meaning and effect as prescribed in this part. Substantially similar forms may include forms from other states.

(b) The power of attorney for care of a minor child shall be in substantially the following form:

**'GEORGIA POWER OF ATTORNEY FOR CARE OF A MINOR CHILD**

NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE GRANDPARENT OR GREAT-GRANDPARENT THAT YOU DESIGNATE (THE AGENT) BROAD POWERS TO CARE FOR YOUR MINOR CHILD INCLUDING REGISTERING THE CHILD FOR SCHOOL; MAKING MEDICAL, DENTAL, AND MENTAL HEALTH CARE DECISIONS FOR THE CHILD, INCLUDING THE POWER TO REQUIRE, CONSENT TO, REFUSE, OR WITHDRAW ANY TYPE OF PERSONAL CARE OR MEDICAL TREATMENT FOR ANY PHYSICAL OR MENTAL CONDITION AND TO ADMIT THE CHILD TO OR DISCHARGE THE CHILD FROM ANY HOSPITAL, HOME, OR OTHER INSTITUTION; AND PROVIDING FOR THE CHILD'S FOOD, LODGING, HOUSING, RECREATION, AND TRAVEL. THE AGENT IS REQUIRED TO EXERCISE DUE CARE TO ACT FOR THE CHILD'S BENEFIT AND IN ACCORDANCE WITH THIS FORM. A COURT CAN TAKE AWAY THE POWERS OF THE AGENT IF IT FINDS THAT THE AGENT IS NOT ACTING PROPERLY. UNTIL YOU REVOKE THIS POWER OR A COURT TERMINATES THE POWER, THE AGENT MAY EXERCISE THE POWERS GIVEN IN THIS POWER OF ATTORNEY FOR CARE OF A MINOR CHILD THROUGHOUT THE CHILD'S MINORITY. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

**POWER OF ATTORNEY FOR CARE OF A MINOR CHILD**

made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

1. I, \_\_\_\_\_ (insert name and address of parent or parents), hereby appoint \_\_\_\_\_ (insert name and address of grandparent or great-grandparent to be named as agent) as attorney in fact (the agent) for my child \_\_\_\_\_ (insert name of child)

to act for me and in my name in any way that I could act in person to register my child for school; seek medical, dental, and mental health treatment; provide for the child's food, lodging, housing, recreation, and travel; and otherwise make any and all decisions for my child's well-being. The agent shall have the same access to school, medical, dental, and mental health records or any other records relating to my minor child that I have including the right to disclose the contents thereof to others.

THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS POSSIBLE SO THAT THE AGENT WILL HAVE THE AUTHORITY TO MAKE ANY DECISION THAT I COULD MAKE ON BEHALF OF MY MINOR CHILD SUBJECT TO THE LIMITATIONS, IF ANY, CONTAINED IN PARAGRAPH 2 BELOW.

2. The powers granted above shall not include the following powers or shall be subject to the following rules or limitations (here you may include any specific limitations that you deem appropriate):

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THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED IN WRITING BY THE PARENT OR PARENTS AT ANY TIME. IN THE ABSENCE OF AN AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS POWER OF ATTORNEY FOR CARE OF A MINOR CHILD SHALL BECOME EFFECTIVE AT THE TIME THIS POWER OF ATTORNEY IS SIGNED AND WILL CONTINUE UNTIL REVOKED IN WRITING OR THE MINOR CHILD REACHES THE AGE OF MAJORITY OR IS EMANCIPATED UNLESS A LIMITATION ON THE BEGINNING DATE OR DURATION IS MADE BY INITIALING AND COMPLETING EITHER OR BOTH OF PARAGRAPHS (3) AND (4) BELOW:

3. ( ) This power of attorney for care of a minor child shall become effective on \_\_\_\_\_ (insert a future date on which you desire this power of attorney for care of a minor child to take effect).
4. ( ) This power of attorney for care of a minor child shall terminate on \_\_\_\_\_ (insert a future date or event on which you want this power of attorney for care of a minor child to terminate prior to the minor child reaching the age of majority).
5. This power of attorney for care of a minor child is being executed because of the following hardship:
  - \_\_\_\_\_ (A) The death, serious illness, terminal illness, or incarceration of a parent;
  - \_\_\_\_\_ (B) The physical or mental condition of the parent or the child such that care and supervision of the child cannot be provided by the parent;
  - \_\_\_\_\_ (C) The loss or uninhabitability of the child's home as the result of a natural disaster; or

\_\_\_\_\_ (D) Active military duty of one or both parents.

IF YOU WISH TO NAME A GUARDIAN FOR YOUR MINOR CHILD IN THE EVENT THAT A COURT DECIDES THAT A GUARDIAN SHOULD BE APPOINTED, YOU MAY, BUT ARE NOT REQUIRED TO, DO SO BY INSERTING THE NAME AND ADDRESS OF SUCH PERSON IN THE FOLLOWING PARAGRAPH. YOU MAY, BUT ARE NOT REQUIRED TO, NOMINATE AS GUARDIAN THE SAME PERSON THAT YOU HAVE NAMED IN THIS FORM AS AGENT.

6. If a guardian of my minor child is to be appointed, I nominate the following person to serve as such guardian: \_\_\_\_\_ (insert name and address of person nominated to be guardian of the minor child).
7. I am fully informed as to all of the contents of this form and I understand the full import of this grant of powers to my agent.
8. I certify that the minor child is not emancipated and, if the minor child becomes emancipated, this power of attorney shall no longer be valid.
9. I hereby certify that this power of attorney is not executed for the primary purpose of enrolling the child in a school so that the child may participate in the academic or interscholastic athletic programs provided by that school.
10. I declare under penalty of perjury under the laws of the State of Georgia that the foregoing is true and correct.

Parent Signature: \_\_\_\_\_ (Seal)

Parent Signature: \_\_\_\_\_ (Seal)

Signed and sealed in the presence of \_\_\_\_\_,  
Notary Public.

My Commission expires: \_\_\_\_\_.'

## Part 2

19-9-140.

This part shall be known and may be cited as the 'Grandchildren's Caregiver Subsidy Act.'

19-9-141.

As used in this part, the term:

- (1) 'Department' means the Department of Human Resources.
- (2) 'Grandchild subsidy' means the aid provided on behalf of children in the pilot program under the terms of this part.
- (3) 'Grandparent' means any grandparent as defined in Code Section 19-7-3.
- (4) 'Great-grandparent' means any parent of a grandparent.
- (5) 'Parent' means any parent with legal custody of a minor child.

19-9-142.

(a) The department shall establish a pilot program for providing a grandchild subsidy to eligible persons pursuant to this part.

(b) Upon funds being appropriated by the General Assembly, the grandchild subsidy under the pilot program shall be provided under this part on behalf of any minor child:

(1) Who is in the legal custody or guardianship of a grandparent or great-grandparent; and

(2) Whose grandparent or great-grandparent has an annual income less than 200 percent of the federal poverty level for the number of dependents including grandchildren and great-grandchildren living in the household.

(c) Such grandparent or great-grandparent meeting the criteria in subsection (b) of this Code section shall receive a special monthly grandchild subsidy benefit equal to 80 percent of the state-wide average foster care rate. Such grandparent or great-grandparent shall remain eligible for the grandchild subsidy for each month that the grandchild or great-grandchild continues to live with the grandparent or great-grandparent, provided that the other criteria under this part are met.

(d) Any grandchild subsidy paid to a grandparent or great-grandparent shall not affect the eligibility of the grandchild or great-grandchild to receive Medicaid or PeachCare for Kids benefits or benefits from any other state or federal program for which the grandchild or great-grandchild would otherwise be eligible.

(e)(1) The department shall request participation in this pilot program established pursuant to this part from current grandparent raising grandchildren programs including, but not limited to: Kinship Resource Center in Clayton County, St. Joseph's Mercy Care Center for Grandparents Raising Grandchildren in Rome, Project Healthy Grandparents at Athens Community Council on Aging in Athens, Grandparents Raising Grandchildren Project in Augusta, and Project Healthy Grandparents at Georgia State University in Atlanta.

(2) The department shall provide for the implementation of the pilot program and shall ensure that:

(A) No more than 1,300 families at any given time shall be participating in the pilot program;

(B) No later than the fifth day of each month the grandparent or great-grandparent shall provide written affirmation that the grandchild or great-grandchild continues to live in the grandparent's or great-grandparent's household; and

(C) A periodic verification of eligibility to remain in the program shall be completed at least annually for each family participating in the program.

(f) Any grandparent or great-grandparent participating in the pilot program who knowingly fails to comply with the requirements of the pilot program or who knowingly fails to notify the department when the grandparent or great-grandparent no longer meets the eligibility requirements for the grandchild subsidy under subsection (c) of this Code section shall be punished in accordance with Georgia law and shall, in addition to all other remedies, repay all subsidy amounts paid during the period of ineligibility and all costs associated with any action taken by the department in connection with the ineligibility.

(g) A yearly status report shall be submitted to the department's Division of Aging Services.

(h) The department shall provide for an evaluation of this pilot program to be prepared and delivered to the General Assembly after the second, fourth, and fifth year of implementation of the pilot program.

(i) The pilot program provided in this Code section shall expire five years from the date of the implementation of the pilot program unless extended by action of the General Assembly."

#### **SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 41, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 56, nays 0.

SB 420, having received the requisite constitutional majority, was passed by substitute.

SB 592. By Senators Grant of the 25th, Hill of the 4th, Kemp of the 46th and Harp of the 29th:

A BILL to be entitled an Act to amend Article 4 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to the disposition of surplus property, so as to provide for the sale of certain property by fixed price; to permit the negotiated sale of surplus property to charitable institutions; to change certain provisions relating to the disposition of surplus property by the Department of Administrative Services; to provide for penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 56, nays 0.

SB 592, having received the requisite constitutional majority, was passed.

SB 480. By Senators Unterman of the 45th, Thomas of the 54th and Goggans of the 7th:

A BILL to be entitled an Act to amend Chapter 26 of Title 43 of the O.C.G.A., relating to nurses, so as to provide for the certification of qualified medication aides; to provide for a short title; to provide legislative findings; to provide for definitions; to provide for the delegation of certain nursing tasks; to provide for powers and responsibilities of the Georgia Board of Examiners of Licensed Practical Nurses; to provide for certification standards and requirements; to provide for the issuance and renewal of certificates; to provide for permitted and prohibited activities; to provide for requirements of community living arrangements which utilize qualified medication aides; to provide for sanctions; to provide for construction; to provide for automatic repeal; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Health and Human Services Committee offered the following substitute to SB 480:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, so as to provide for the certification of qualified medication aides; to provide for a short title; to provide legislative findings; to provide for definitions; to provide for the delegation of certain nursing tasks; to provide for powers and responsibilities of the Georgia Board of Examiners of Licensed Practical Nurses; to provide for certification standards and requirements; to provide for the issuance and renewal of certificates; to provide for permitted and prohibited activities; to provide for requirements of community living arrangements which utilize qualified medication aides; to provide for sanctions; to provide for construction; to provide for automatic repeal; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is amended by adding a new article to read as follows:

"ARTICLE 3

43-26-50.

This article shall be known and may be cited as the 'Georgia Qualified Medication Aide Act.'

43-26-51.

The purpose of this article is to protect, promote, and preserve the public health, safety, and welfare through the delegation of certain activities performed by registered professional nurses and licensed practical nurses to persons who are certified as qualified medication aides and who are employed by and working in community living arrangements established by the Department of Human Resources pursuant to paragraphs (15) and (16) of subsection (b) of Code Section 37-1-20.

43-26-52.

As used in this article, the term:

- (1) 'Applicant' means any person seeking certification under this article.
- (2) 'Board' means the Georgia Board of Examiners of Licensed Practical Nurses established pursuant to Article 2 of this chapter.
- (3) 'Community living arrangement' means any residence, whether operated for profit or not for profit, which undertakes through its ownership or management to provide or arrange for the provision of daily personal services, support, care, or treatment exclusively for two or more adults who are not related to the owner or administrator by blood or marriage which is established by the Department of Human Resources pursuant to paragraph (16) of subsection (b) of Code Section 37-1-20 and whose services are financially supported, in whole or part, by funds authorized through the Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources. A community living arrangement is also referred to as a 'residence.'
- (4) 'Licensed practical nurse' means an individual who is licensed to practice nursing under Article 2 of this chapter.
- (5) 'Medication administration record' means a written record of medication ordered for and received by a resident of a community living arrangement.
- (6) 'Qualified medication aide' means a person who meets the qualifications specified in this article and who is currently certified by the board.
- (7) 'Physician' means an individual who is licensed to practice medicine under Article 2 of Chapter 34 of this title.
- (8) 'Registered professional nurse' means an individual who is licensed to practice nursing under Article 1 of this chapter.
- (9) 'Resident' means an individual in a community living arrangement.
- (10) 'Supervising nurse' means the registered professional nurse who is responsible for the supervision of a qualified medication aide in a community living arrangement.
- (11) 'Supervision' means initial and ongoing direction, procedural guidance, and observation and evaluation of the qualified medication aide by a registered professional nurse.

43-26-53.

(a) A registered professional nurse or a licensed practical nurse may delegate certain nursing tasks, as set out in Code Section 43-26-56, to no more than 15 qualified

medication aides who are working at and employed by community living arrangements.

(b) Certification as a qualified medication aide by the board shall constitute a presumption that the qualified medication aide has acquired the necessary knowledge, skills, and experience to perform the delegated nursing task with reasonable skill and safety upon the residents of community living arrangements. The presumption may be overcome or rebutted by evidence to the contrary, including, but not limited to, the determination that deceptive or fraudulent information was used to obtain certification as a qualified medication aide.

43-26-54.

The board shall have the power and responsibility to:

- (1) Determine the qualifications and fitness of applicants for certification as a qualified medication aide and renewal of the certificate;
- (2) Adopt rules and regulations consistent with this article necessary to enable it to carry into effect the provisions of this article, including disciplinary rules;
- (3) Examine for, approve, issue, deny, revoke, suspend, and renew the certification of qualified medication aide certificate holders and applicants under this article;
- (4) Conduct hearings in accordance with the Georgia Administrative Procedure Act regarding the regulation and enforcement of this article;
- (5) Regulate the acts and practices that are allowed or prohibited for qualified medication aides, in accordance with the provisions of this article;
- (6) Establish application, examination, and certification fees;
- (7) Establish requirements for the education and training of qualified medication aides; and
- (8) Establish continuing education requirements.

43-26-55.

(a) The board shall receive applications for certification to be qualified medication aides in Georgia. Each applicant shall meet the following qualifications:

- (1) Be at least 18 years of age;
- (2) Be able to read, write, speak, and understand the English language;
- (3) Have attained a high school diploma or a general educational development (GED) diploma or the equivalent thereof;
- (4) Have satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center, as determined by the board. Application for a certificate under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for certification agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check;
- (5) Have completed a prescribed course of study in a qualified medication aide program conducted by the Department of Technical and Adult Education;

- (6) Have successfully passed a board approved or administered competency exam for qualified medication aides; and
- (7) Have met such other requirements as may be prescribed by the board.
- (b) Each qualified medication aide shall, in order to maintain certification, work under the supervision of a registered professional nurse.
- (c) Certificates issued under this article shall be renewed biennially according to schedules and fees approved by the board.

## 43-26-56.

- (a) The following tasks are permitted activities that may be delegated to a qualified medication aide under supervision and are subject to the rules and regulations promulgated by the board:
  - (1) Administer physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and rectal medications and medications by gastric ('G' or 'J') tube;
  - (2) Administer insulin under physician direction and protocol;
  - (3) Administer medication via metered dose inhaler;
  - (4) Conduct finger stick blood glucose testing following established protocol;
  - (5) Administer commercially prepared disposable enema as ordered by a physician;
  - (6) Administer treatment for skin conditions, including stage I and II decubitus ulcers, following a designated protocol;
  - (7) Assist residents in supervised self-administration of medication;
  - (8) Record in the medication administration record all medications that the qualified medication aide has personally administered, including a resident's refusal to take medication; and
  - (9) Observe and report to the supervising nurse any changes in the resident's condition.
- (b) The board shall promulgate rules and regulations regarding the activities permitted by this Code section and any other permitted activities, as determined by the board, and those activities that the supervising nurse is prohibited from delegating to a qualified medication aide and that the qualified medication aide is prohibited from performing.

## 43-26-57.

A community living arrangement which utilizes the services of a qualified medication aide shall employ or contract with a registered professional nurse who has responsibility for the supervision of the qualified medication aide. A registered professional nurse under discipline, sanction, or restriction by the Georgia Board of Nursing shall not provide supervision for a qualified medication aide.

## 43-26-58.

- (a) The board shall have the authority to refuse to grant or to renew a certificate to an applicant, to revoke the certificate of a certificate holder, or to discipline a certificate holder upon a finding by the board that the applicant or certificate holder has:
  - (1) Been convicted of a felony, a crime involving moral turpitude, or any crime

violating a federal or state law relating to controlled substances or dangerous drugs or marijuana in the courts of this state, any other state, territory, or country, or in the courts of the United States, including, but not limited to, a plea of nolo contendere entered to the charge, the granting of first offender treatment without adjudication of guilt, or the withholding of adjudication of guilt on the charges or crime;

(2) Had a certificate to practice as a qualified medication aide revoked, suspended, or annulled by any lawful certificating authority of any state or county, had other disciplinary action taken by any lawful certificating authority for any certification or licensure to practice a business or profession, including refusal of certification or licensure, or was denied a certificate by any lawful certificating authority;

(3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person. As used in this paragraph, the term 'unprofessional conduct' includes any departure from, or the failure to conform to, the minimum standards of acceptable and prevailing practice as a qualified medication aide;

(4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation of the board, this state, any other state, the United States, or any other lawful authority, without regard to whether the violation is criminally punishable, which statute, law, or rule or regulation relates to or in part regulates the practice of a qualified medication aide, when the qualified medication aide or applicant knows or should have known that such action violates such law or rule or regulation;

(5) Violated a lawful order of the board previously entered by the board or the order of any certifying or licensing authority; or

(6) Displayed an inability to practice as a qualified medication aide with reasonable skill and safety due to illness; use of alcohol, drugs, narcotics, chemicals, or any other types of material; or as a result of any mental or physical condition.

(A) In enforcement of this paragraph, the board may, upon reasonable grounds, require a certificate holder or applicant to submit to a mental or physical examination by a board approved health care professional. The expense of such mental or physical examination shall be borne by the certificate holder or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under contrary law or rule. Every certificate holder and applicant shall be deemed to have given such person's consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a certificate holder or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond that person's control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any certificate holder or applicant who is prohibited from practicing under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that such person can resume or begin to practice as a qualified medication aide with reasonable skill and safety.

(B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a certificate holder or applicant, including psychiatric records; such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary law or rule. Every person who is certificated in this state or who shall file an application for said certificate shall be deemed to have given such person's consent to the board's obtaining such records and to have waived all objections to the admissibility of such records in any hearing before the board upon the grounds that the same constitute a privileged communication.

(b) Neither denial of an initial certificate, the issuance of a private reprimand, nor the denial of a request for reinstatement of a certificate on the grounds that the certificate holder or applicant has failed to meet the minimum requirements shall be considered a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the certificate holder or applicant shall be allowed to appear before the board if he or she so requests.

43-26-59.

(a) Nothing in this article shall be construed to limit or repeal Articles 1 and 2 of this chapter, relating to registered professional nurses and licensed practical nurses, respectively.

(b) Nothing in this article shall be construed to limit or repeal any existing authority of a physician to delegate to a qualified person any acts, duties, or functions which are otherwise permitted by law or established by custom.

43-26-60.

This article shall be repealed in its entirety on July 1, 2011."

## **SECTION 2.**

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 38, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens

Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 54, nays 0.

SB 480, having received the requisite constitutional majority, was passed by substitute.

Senator Reed of the 35th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

SB 606. By Senators Douglas of the 17th, Grant of the 25th and Schaefer of the 50th:

A BILL to be entitled an Act to amend Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order and safety, so as to prohibit disruptive conduct at funerals, memorial services, or funeral processions; to provide for legislative intent; to provide for the elements of such offense; to provide for a criminal penalty; to provide for an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

Senators Douglas of the 17th, Tolleson of the 20th and Staton of the 18th offered the following amendment #1:

*Amend SB 606 by striking "funerals, memorial services, or funeral processions" on line 3 of page 1 and inserting "funerals or memorial services".*

*By striking "funeral, memorial service, or funeral procession" on line 13 of page 1; on line 17 of page 1; on lines 19 and 20 of page 1; on line 21 of page 1; on line 25 of page*

*1; on line 26 of page 1; on lines 2 and 3 of page 2; on line 4 of page 2; on lines 5 and 6 of page 2; on line 10 of page 2; on lines 11 and 12 of page 2; on lines 14 and 15 of page 2; and on line 16 of page 2 and inserting in each instance "funeral or memorial service".*

*By striking "or procession route" on line 14 of page 2.*

On the adoption of the amendment, the yeas were 50, nays 0, and the Douglas et al. amendment #1 was adopted.

Senator Tolleson of the 20th offered the following amendment #2:

Amend SB 606 by line 24 delete 100 after within

add 500

On the adoption of the amendment, the yeas were 48, nays 1, and the Tolleson amendment #2 was adopted.

Senator Tolleson of the 20th offered the following amendment #3:

Amend SB 606 by delete on page 2 line 3 and on page 2 line 10 the word 100 and by inserting the word 500 in lieu thereof.

On the adoption of the amendment, the yeas were 45, nays 0, and the Tolleson amendment #3 was adopted.

The report of the committee, which was favorable to the passage of the bill, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	E Thompson,S
Y Goggans	Y Pearson	Y Tolleson

Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 55, nays 0.

SB 606, having received the requisite constitutional majority, was passed as amended.

Senator Williams of the 19th moved that the Senate stand adjourned pursuant to SR 1098 until 9:00 a.m. Monday, March 13, 2006; the motion prevailed, and at 12:58 p.m. the President announced the Senate adjourned.